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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 20-F

(Mark One)

☐ **REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934**

OR

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 For the fiscal year ended December 31, 2008**

OR

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

OR

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

Date of event requiring this shell company report _____

For the transition period from _____ to _____

Commission file number 1-14946

CEMEX, S.A.B. de C.V.

(Exact name of Registrant as specified in its charter)

CEMEX PUBLICLY TRADED STOCK CORPORATION
(Translation of Registrant's name into English)

United Mexican States
(Jurisdiction of incorporation or organization)

Av. Ricardo Margáin Zozaya #325, Colonia Valle del Campestre, Garza García, Nuevo León, México 66265
(Address of principal executive offices)

Ramiro G. Villarreal Morales, (011-5281) 8888-8888, (011-5281) 8888-4399,
Av. Ricardo Margáin Zozaya #325, Colonia Valle del Campestre, Garza García, Nuevo León, México 66265
(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact Person)

Securities registered or to be registered pursuant to Section 12(b) of the Act.

Title of each class	Name of each exchange on which registered
American Depositary Shares, or ADSs, each ADS representing ten Ordinary Participation Certificates (Certificados de Participación Ordinarios), or CPOs, each CPO representing two Series A shares and one Series B share	New York Stock Exchange

Securities registered or to be registered pursuant to Section 12(g) of the Act.

None
(Title of Class)

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

None
(Title of Class)

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report.

8,125,652,981 CPOs
16,726,263,082 Series A shares (including Series A shares underlying CPOs)
8,363,131,541 Series B shares (including Series B shares underlying CPOs)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☑ No ☐

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes ☐ No ☑

Note—Checking the box above will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 from their obligations under those sections.

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). N/A

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☑ Accelerated filer ☐ Non-accelerated filer ☐

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP _____ International Financial Reporting Standards as issued by the International Accounting Standards Board ☐ Other ☑

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow.

Item 17 ☐ Item 18 ☑

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes ☐ No ☑

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INTRODUCTION

CEMEX, S.A.B. de C.V. is incorporated as a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) organized under the laws of the United Mexican States, or Mexico. Except as the context otherwise may require, references in this annual report to "CEMEX," "we," "us" or "our" refer to CEMEX, S.A.B. de C.V., its consolidated subsidiaries and, except for accounting purposes, its non-consolidated affiliates. For accounting purposes, references in this annual report to "CEMEX," "we," "us" or "our" refer solely to CEMEX, S.A.B. de C.V. and its consolidated subsidiaries. See note 1 to our consolidated financial statements included elsewhere in this annual report.

PRESENTATION OF FINANCIAL INFORMATION

Our consolidated financial statements included elsewhere in this annual report have been prepared in accordance with Mexican Financial Reporting Standards, or MFRS, which differ in significant respects from generally accepted accounting principles in the United States, or U.S. GAAP. Beginning on January 1, 2008, according to new MFRS B-10, *Inflation Effects* ("MFRS B-10") inflationary accounting will only be applied in a high-inflation environment, defined by MFRS B-10 as existing when the cumulative inflation for the preceding three years equals or exceeds 26%. Until December 31, 2007, inflationary accounting was applied to both CEMEX, S.A.B. de C.V. and all CEMEX subsidiaries regardless of the inflation level of their respective countries. Beginning in 2008, only the financial statements of those subsidiaries whose functional currency corresponds to a country under high inflation will be restated to take account of inflation. Designation of a country as a high or low inflation environment takes place at the end of each year and inflation is applied prospectively. As of December 31, 2007, except for Venezuela and Costa Rica, all of CEMEX's subsidiaries operated in low-inflation environments; therefore, restatement of their historical cost financial statements to take account of inflation was suspended starting on January 1, 2008.

Beginning in 2008, MFRS B-10 eliminates the restatement of the financial statements for the period as well as the comparative financial statements for prior periods into constant values as of the date of the most recent balance sheet. Beginning in 2008, the amounts of the income statement, statement of cash flows and statement of changes in stockholders' equity are presented in nominal values; meanwhile amounts of financial statements for prior years are presented in constant Pesos as of December 31, 2007, the last date in which inflationary accounting was applied. Until such date, the index was calculated based upon the inflation rates of the countries in which we operate and the changes in the exchange rates of each of these countries, weighted according to the proportion that our assets in each country represent of our total assets.

Until December 31, 2007, the restatement factors applied to the consolidated financial statements of prior periods were calculated using the weighted average inflation and the fluctuation in the exchange rate of each country in which CEMEX operates relative to the Mexican Peso. Also, see note 25 to our consolidated financial statements for a description of the principal differences between MFRS and U.S. GAAP as they relate to us.

Non-Peso amounts included in the financial statements are first translated into Dollar amounts, in each case at a commercially available or an official government exchange rate for the relevant period or date, as applicable, and those Dollar amounts are then translated into Peso amounts at the CEMEX accounting rate, described under Item 3 — "Key Information — Mexican Peso Exchange Rates", as of the relevant period or date, as applicable.

References in this annual report to "U.S.$" and "Dollars" are to U.S. Dollars, references to "€" are to Euros, references to "£" and "Pounds" are to British Pounds, references to "¥" and "Yen" are to Japanese Yen, and, unless otherwise indicated, references to "Ps," "Mexican Pesos" and "Pesos" are to Mexican Pesos. The Dollar amounts provided below and, unless otherwise indicated elsewhere in this annual report, are translations of Peso amounts at an exchange rate of Ps13.74 to U.S.$1.00, the CEMEX accounting rate as of December 31, 2008. However, in the case of transactions conducted in Dollars, we have presented the Dollar amount of the transaction and the corresponding Peso amount that is presented in our consolidated financial statements. These translations have been prepared solely for the convenience of the reader and should not be construed as representations that the Peso amounts actually represent those Dollar amounts or could be converted into Dollars at the rate indicated. From

December 31, 2008 through June 26, 2009, the Peso appreciated by approximately 4.3% against the Dollar, based on the noon buying rate for Pesos. See “Item 3 — Key Information — Selected Consolidated Financial Information.”

The noon buying rate for Pesos on December 31, 2008 was Ps13.83 to U.S.$1.00 and on June 26, 2009 was Ps13.24 to U.S.$1.00.

PART I

Item 1 - Identity of Directors, Senior Management and Advisors

Not applicable.

Item 2 - Offer Statistics and Expected Timetable

Not applicable.

Item 3 - Key Information

Risk Factors

Many factors could have an effect on our financial condition, cash flows and results of operations. We are subject to various risks resulting from changing economic, environmental, political, industry, business, financial and climate conditions. The principal factors are described below.

We have substantial amounts of debt maturing in 2009 and each of the next several years, and a substantial amount of our debt is subject to the Conditional Waiver and Extension Agreement.

We currently have a substantial amount of debt. As of December 31, 2008, we had Ps258,094 million (U.S.$18,784 million) of total debt, not including approximately Ps41,495 million (U.S.$3,020 million) of perpetual debentures issued by special purpose vehicles, which are not accounted for as debt under MFRS but are considered to be debt for purposes of U.S. GAAP. Of our total debt as of December 31, 2008, approximately Ps95,270 million (U.S.$6,934 million) was short-term debt (including the current portion of long-term debt), and approximately Ps162,824 million (U.S.$11,850 million) was long-term debt. We have a substantial amount of debt maturing in the next several years. As of May 31, 2009, we had debt with an aggregate principal amount of approximately U.S.$4,284 million maturing during the rest of 2009, and U.S.$3,882 million and U.S.$7,845 million maturing in 2010 and 2011, respectively. Subject to the terms of the contractual restrictions binding on us at the time, we may also incur more debt in the future.

We are currently in debt refinancing discussions with our lenders. See “Item 5 — Operating and Financial Review and Prospects — Recent Developments — Recent Developments Relating to Our Indebtedness.” During the first quarter of 2009, we entered into a Conditional Waiver and Extension Agreement with a group of our bank lenders. The lenders party to the Conditional Waiver and Extension Agreement have agreed to extend to July 31, 2009 scheduled principal payment obligations which were originally due between March 24, 2009 and July 31, 2009. We entered into the Conditional Waiver and Extension Agreement to give us time to negotiate a broader debt refinancing. As of June 26, 2009, principal payments in an aggregate principal amount of approximately U.S.$1,166 million have been extended under the Conditional Waiver and Extension Agreement.

Upon expiration of the Conditional Waiver and Extension Agreement (currently scheduled for July 31, 2009), the extended amounts will become immediately due and payable and the remaining amounts with longer maturities under the relevant facilities (in an aggregate principal amount of approximately U.S.$12,924 million as of June 26, 2009) will be capable of being accelerated by a vote of the requisite lenders under each relevant facility. Additionally, under the Conditional Waiver and Extension Agreement, a termination event may occur in a variety of situations that are not in our control including, but not limited to, a lender increasing pricing on a relevant existing facility and a lender declaring a default or canceling any relevant existing facility. We cannot provide assurance that we will be able to enter into a refinancing plan to replace the Conditional Waiver and Extension Agreement prior to July 31, 2009 or to extend the Conditional Waiver and Extension Agreement to a later date. The unanimous consent of all lenders party to the Conditional Waiver and Extension Agreement is required to extend it. If the Conditional Waiver and Extension Agreement expires or terminates, and we are unable to pay the extended amounts and any accelerated amounts, this would trigger a payment default under the relevant bank facilities, which would trigger defaults under other debt of ours.

We have significant amounts of debt coming due in each of the next several years, and we may not be able to secure refinancing on favorable terms or at all.

We intend to enter into a refinancing plan in the next few months. The refinancing plan we are negotiating will likely include amortization requirements, which we intend to meet using funds from a variety of sources, including the proceeds from free cash flow, asset sales and debt and/or equity security issuances. The refinancing plan may also include a requirement to issue debt and/or equity securities in specified instances. Our inability to meet the amortization requirements will result in a payment default. The refinancing plan will likely include a revised covenant package that will place various restrictions on us. We may also be required to encumber or segregate some of our assets for the benefit of our lenders as part of the refinancing plan, and if we are unable to meet the amortization requirements and cannot refinance the debt, the lenders under the refinancing plan could have the right to exercise remedies and foreclose on the pledged assets.

Historically, we have addressed our liquidity needs (including funds required to make scheduled principal and interest payments, refinance debt, and fund working capital and planned capital expenditures) with operating cash flow, borrowings under credit facilities, proceeds of debt and equity offerings, and proceeds from asset sales. The global stock and credit markets have recently experienced significant price volatility, dislocations and liquidity disruptions, which have caused market prices of many stocks to fluctuate substantially and the spreads on prospective and outstanding debt financings to widen considerably. These circumstances have materially impacted liquidity in the financial markets, making terms for financings materially less attractive, and in several cases have resulted in the unavailability of certain types of financing. This volatility and illiquidity has negatively impacted a broad range of fixed income securities. As a result, the market for fixed income securities has experienced decreased liquidity, increased price volatility, credit downgrade events, and increased defaults. Global equity markets have also been experiencing heightened volatility and turmoil, with issuers exposed to the credit markets particularly affected. These factors and the continuing market disruption have had, and may continue to have, an adverse effect on us, including on our ability to refinance future maturities.

In addition, continued uncertainty in the stock and credit markets may negatively impact our ability to access additional short-term and long-term financing, including accounts receivable securitizations, on reasonable terms or at all, which would negatively impact our liquidity and financial condition. See “Item 5 — Operating and Financial Review and Prospects — Liquidity and Capital Resources — Our Receivables Financing Arrangements.”

On March 10, 2009, our credit ratings were downgraded below investment grade by Standard & Poor’s and by Fitch. The loss of our investment grade ratings has negatively impacted and will continue to negatively impact the availability of financing and the terms on which we could refinance our debt, including the imposition of more restrictive covenants and higher interest rates. The disruptions in the financial and credit markets may continue to adversely affect our credit rating and the market value of our common stock. If the current pressures on credit continue or worsen, we may not be able to refinance, if necessary, our outstanding debt when due, which could have a material adverse effect on our business and financial condition.

Our revolving credit facilities are fully drawn. If our operating results worsen significantly, or if we are unable to complete our planned divestitures and our cash flow or capital resources prove inadequate, we could face liquidity problems and may not be able to comply with our upcoming principal payment maturities under our indebtedness.

We and our subsidiaries have sought and obtained waivers and amendments to several of our debt instruments relating to a number of financial ratios. We may need to seek waivers or amendments in the future. However, we cannot assure you that any future waivers, if requested, will be obtained. If we or our subsidiaries are unable to comply with the provisions of our debt instruments, and are unable to obtain a waiver or amendment, the indebtedness outstanding under such debt instruments could be accelerated. Acceleration of these debt instruments would have a material adverse effect on our financial condition.

The current global economic recession is likely to continue to adversely affect our business and results of operations.

A global recession is currently underway. This could be the deepest and longest global recession in over a generation. Despite the aggressive measures taken by governments and central banks thus far, there is still a significant risk that these measures may not prevent the global economy from falling into an even deeper and longer lasting recession, and even a depression. In the construction sector, declines in residential construction have broadened and intensified in line with the spread and the worsening of the financial crisis. The adjustment process has been more severe in countries which experienced the largest housing market expansion during the years of high credit availability (such as the U.S., Spain, Ireland and the U.K.). The infrastructure plans already announced by many countries, including the U.S. and Mexico, may not stimulate economic growth or yield the expected results because of delays in implementation and/or bureaucratic issues, among other obstacles. A worsening of the current economic crisis or delays in any such plans may adversely affect demand for our products.

In the U.S., the current recession is already longer and deeper than the previous two recessions. We expect the U.S. credit crunch to continue negatively affecting the housing market in the near future. Housing starts, the fundamental driver of cement demand in the residential sector, decreased by 33% in 2008 compared to 2007, according to the U.S. Census Bureau, and in 2009 have been running at historical lows – at an annual rate of 532,000 based on available data as of May 2009. A housing recovery may not take place in the short term given the current market environment, tight credit conditions and the still elevated housing oversupply. Uncertainty regarding public construction continues following the announcement of the U.S. government's fiscal package. We cannot give any assurances that infrastructure plans announced in the U.S. would offset the expected decline in cement and ready-mix concrete demand as a result of current economic conditions. The uncertain economic environment and tight credit conditions also affected the U.S. industrial and commercial sector during 2008, with contract awards — a leading indicator of construction — declining 27% in 2008 compared to 2007, according to FW Dodge. This combination of factors resulted in the worst decline in sales volumes that we have experienced in the United States in recent history. Our U.S. operations' cement and ready-mix concrete sales volumes decreased approximately 14% and 13%, respectively, in 2008 compared to 2007 (approximately 21% and 30%, respectively, on a like-to-like basis taking into account the consolidation of the Rinker's operations for an additional six months in 2008 compared to 2007). Our U.S. operations' cement and ready-mix concrete sales volumes decreased approximately 33% and 41%, respectively, in the first quarter of 2009 compared to the same period in 2008.

The Mexican economy is currently undergoing a recession that began in 2008 as a result of the impact of the global financial crisis in many emerging economies during the second half of the year. The link with the U.S. economy remains very important, and therefore, any downside to its economic outlook may hinder any recovery in Mexico. The crisis also has negatively affected the local credit markets resulting in increased cost of capital that may negatively impact companies' ability to meet their financial needs. During 2008, the Mexican Peso depreciated by 26% against the Dollar. Moreover, further exchange rate depreciation and/or increasing volatility in the markets would adversely affect our operational and financial results. We cannot be certain that a more pronounced contraction of Mexican overall activity will not take place, which would translate into a bleaker outlook for the construction sector and its impact on cement and concrete consumption. The Mexican government's plan to increase infrastructure spending could prove to be, as in other countries, difficult to implement in a timely manner and in the officially announced amounts. As a result of the current economic environment, our Mexican cement and ready-mix concrete sales volumes decreased approximately 4% and 6%, respectively, in 2008 compared to 2007. In the first quarter of 2009, our Mexican cement and ready-mix concrete sales volumes increased approximately 3% and 4%, respectively, compared to the first quarter of 2008, as a result of infrastructure spending beginning in the second half of 2008 and additional working days during the first quarter of 2009.

Many Western European countries, including the U.K., France, Spain and Germany, entered into recessions several months ago due to the global economic environment, the financial crisis and their impact on the economies of such countries, including the construction sectors. If this situation continues to deteriorate, our financial condition and results of operations could be negatively affected. These risks are more pronounced in those countries with a higher degree of previous market distortions (especially the existence of real estate bubbles and durable goods overhangs prior to the crisis), such as Spain, or those more exposed to financial turmoil, such as the U.K. In the construction sector, the residential adjustment could be longer than anticipated, while non-residential construction could experience a sharper decline than expected. Finally, the boost to infrastructure spending that is hoped to result

from the fiscal packages which have been announced by most European countries could be lower than projected due to bureaucratic hurdles, lags in implementation or funding problems. If these risks materialize, our business, financial condition and results of operations may be adversely affected. According to OFICEMEN, the Spanish cement trade organization, domestic cement demand in Spain declined 23.8% in 2008 compared to 2007, and our Spanish domestic cement and ready-mix concrete sales volumes decreased approximately 52% and 55% in the first quarter of 2009 compared with the same period in 2008. In the U.K., according to the British Cement Association, domestic cement demand decreased approximately 14% in 2008 compared to 2007, and our U.K. domestic cement and ready-mix concrete sales volumes decreased approximately 22% and 27% in the first quarter of 2009 compared with the same period in 2008.

The important trade links with Western Europe make some of the Eastern European countries susceptible to the Western European recession. Large financing needs in these countries pose a significant vulnerability. This issue is expected to be more critical in countries with fixed exchange rates regimes (such as Latvia) that could be forced to devalue. Central European economies could face delays in implementation of European Union Structural Funds (funds provided by the European Union to member states with lowest national income per capita) related projects due to logistical and funding problems, which could have a negative effect on cement and/or ready-mix concrete demand.

The Central and South American economies also pose a downside risk in terms of overall activity. The global financial downturn, lower exports to the U.S. and Europe and lower remittances and commodity prices represent an important negative risk for the region in the short term. This may translate into greater economic and financial volatility and lower growth rates, which could have a negative effect on cement and ready-mix concrete consumption and/or prices. Any significant political instability or economic volatility in the South American, Central American and the Caribbean countries in which we have operations may have an impact on cement prices and demand for cement and ready-mix concrete, which may adversely affect our business and results of operations.

The Asia-Pacific region will likely be affected by a further deterioration of the global economic landscape. An additional increase in country risk and/or decreased confidence among global investors will also limit capital flows and investments in the Asian region. Regarding the Middle East region, lower oil revenues and tighter credit conditions could moderate economic growth and adversely affect construction investment. The accumulated overhang, the rapid downfall in property prices and the radical change in the international financial situation could prompt a sudden adjustment of the residential markets in some of the countries in the region.

In light of the global financial crisis and downturn in the construction industry affecting most of our markets, we do not expect cash flow from operations, after working capital and investment needs, to be sufficient to cover our maturing debt payment obligations in 2009. If the global economy continues to deteriorate and falls into an even deeper and longer lasting recession, or even a depression, our business, financial condition and results of operations will be adversely affected.

We may not be able to realize the expected benefits from past or future acquisitions, some of which may have a material impact on our financial position.

Our ability to realize the expected benefits from past or future acquisitions depends, in large part, on our ability to integrate the new operations with existing operations and to apply our business practices in the new operations in a timely and effective manner. These efforts may not be successful. The acquisition of Rinker has substantially increased our exposure to the United States, which has been experiencing a sharp downturn in the housing and construction sectors, having adverse effects on Rinker's and our operations, making it more difficult for us to achieve our goal of decreasing our acquisition-related leverage. We also may not be able to achieve all the anticipated cost savings from the Rinker acquisition. Our financial statements for the year ended December 31, 2008 include non-cash charges of approximately U.S.$1.5 billion for impairment losses in accordance with MFRS, of which approximately U.S.$1.3 billion refer to impairment of goodwill (mainly related to the Rinker acquisition). See notes 6, 9 and 10C to our financial statements included elsewhere in this annual report. Considering differences in the measurement of fair value, including the selection of economic variables, as well as the methodology for determining final impairment losses between MFRS and U.S. GAAP, our impairment losses in 2008 under U.S. GAAP amounted to approximately U.S.$4.9 billion, including the impairment losses determined under MFRS, of which approximately U.S.$4.7 billion refer to impairment of goodwill, as explained in note 25 to our financial statements included elsewhere in this annual report. Although we currently are seeking to dispose of assets to

reduce our overall leverage, we may in the future acquire new operations and integrate such operations with our existing operations, and some of such acquisitions may have a material impact on our financial position. We cannot assure you that we will be successful in identifying or purchasing suitable assets in the future. If we fail to achieve the anticipated cost savings from any past or future acquisitions, our results of operations may be negatively affected.

Our ability to repay debt and pay dividends depends on our subsidiaries' ability to transfer income and dividends to us and contractual restrictions binding on us.

We are a holding company with no significant assets other than the stock of our wholly-owned and non-wholly-owned subsidiaries and our holdings of cash and marketable securities. Our ability to repay debt and pay dividends depends on the continued transfer to us of dividends and other income from our wholly-owned and non-wholly-owned subsidiaries. The ability of our subsidiaries to pay dividends and make other transfers to us is limited by various regulatory, contractual and legal constraints.

If we are unable to receive cash from our subsidiaries, our results of operations and financial condition could be affected and we may not be able to service our debt.

Our ability to receive funds from these subsidiaries may be restricted by covenants in the debt instruments and other contractual obligations of those entities and applicable laws and regulations including provisions which restrict the payment of dividends based on interim financial results or minimum net worth. We may also be subject to exchange controls on remittances by our subsidiaries from time to time in certain jurisdictions. We cannot assure you that these subsidiaries will generate sufficient income to pay out dividends, and without these dividends, we may be unable to service our debt.

Moreover, the ability of our subsidiaries to pay dividends may be restricted by the laws of the jurisdictions under which such subsidiaries are incorporated. For example, our subsidiaries in Mexico are subject to Mexican legal requirements, which provide that a corporation may declare and pay dividends only out of the profits reflected in the year-end financial statements that are approved by its stockholders. In addition, such payment can be approved by a subsidiary's stockholders only after the creation of a required legal reserve (equal to one fifth of the relevant company's capital) and satisfaction of losses, if any, incurred by such subsidiary in previous fiscal years. Therefore, our cash flows could be affected if we do not receive dividends or other payments from our subsidiaries.

The refinancing plan will likely restrict our ability to declare cash dividends or distributions or similar payments to the shareholders of CEMEX, S.A.B. de C.V.

Our ability to comply with our upcoming debt maturities may depend on making asset sales, and there is no assurance that we will be able to execute such sales on terms favorable to us or at all.

In the short term, we intend to use our capital resources, cash flow from operations, proceeds from capital markets debt and equity offerings and proceeds from the sale of assets to repay debt in order to reduce our leverage, strengthen our capital structure and regain our financial flexibility. See "Item 4 — Information on the Company — Business Overview." Our ability to comply with our payment obligations under the global refinancing plan may depend on our making asset sales, and there is no assurance that we will be able to execute such sales on terms favorable to us or at all.

In connection with our asset divestment initiatives, in 2008, we sold our Canary Islands operations in Spain (consisting of cement and ready-mix concrete assets in Tenerife and our 50% equity interest in two joint-ventures) for approximately €162 million (U.S.$227 million). In addition, during 2008 we sold our Italian operations (consisting of four grinding mills with an installed aggregate capacity of approximately 2,420,000 tons per year) for approximately €148 million (U.S.$210 million). Furthermore, we agreed to sell our operations in Austria (consisting of 26 aggregates and 39 ready-mix concrete plants) and Hungary (consisting of 6 aggregates, 29 ready-mix concrete and 4 paving stone plants) for approximately €310 million (U.S.$433 million). On February 11, 2009, the Hungarian Competition Council, or the HCC, approved the sale, subject to the condition that the purchaser sell the ready-mix concrete plant operating in Salgótarján to a third party within the next year. The transaction is still subject to regulatory approval by the Austrian competition authorities. The purchaser has appealed several conditions imposed by the Austrian competition authorities, which we expect will delay the completion of the sale by at least two

months. On June 15, 2009, we sold three quarries (located in Nebraska, Wyoming and Utah) and our 49% joint venture interest in the operations of a quarry located in Granite Canyon, Wyoming, to Martin Marietta Materials, Inc. for U.S.$65 million. On June 15, 2009, we announced our agreement to sell all our assets in Australia (consisting of 249 ready-mix plants, 83 aggregate quarries, 16 concrete pipe and precast products plants, and CEMEX's 25% stake in Cement Australia) for A$2.02 billion (U.S.$1.6 billion). The transaction is subject to regulatory approval, due diligence and other closing conditions.

As a result of the global economic recession and uncertain market conditions, we may not be able to complete our planned divestitures on terms that we find economically attractive or at all. The current volatility of the credit and capital markets can significantly affect us from a divestiture standpoint, through the availability of funds to potential acquiring parties. The lack of acquisition financing due to the current adverse economic conditions will make it difficult for potential acquiring parties who would otherwise be interested in our assets to make a competitive offer. In addition, high levels of consolidation in our industry in some jurisdictions may further limit potential assets sales to interested parties due to antitrust considerations. Given our current indebtedness and liquidity constraints, our ongoing refinancing efforts and the difficulties to conduct assets sales in the current market, we may be forced to sell our assets at prices substantially lower than their fair value.

If we are unable to complete our planned divestitures and our cash flow or capital resources prove inadequate, we could face liquidity problems and may not be able to comply with our upcoming principal payment maturities under our indebtedness.

We will likely have to issue equity as a financing source; our ability to raise equity capital may be limited, could affect our liquidity and could be dilutive to existing shareholders.

The disruptions in the financial and credit markets may continue to adversely affect our credit rating and the market value of our common stock. If the current pressures on credit continue or worsen, we may not be able to refinance our outstanding debt when due, which could have a material adverse effect on our business and financial condition. If alternative sources of financing continue to be limited, we may be dependent on the issuance of equity as a financing source. In addition, as part of the global refinancing plan, we will likely be required to issue debt or equity or equity-linked securities and use the proceeds to repay debt. The amount of equity and equity-linked securities we may need to issue may be significant. If we raise additional funds by issuing more common stock or debt securities convertible into or exchangeable for our common stock, the percentage ownership of our stockholders at the time of the issuance would decrease and our common stock may experience dilution. In addition, any securities that we issue in the future may have rights, preferences, and privileges more favorable than those of our common stock. Current conditions in the capital markets are such that traditional sources of capital, including equity capital, may not be available to us on reasonable terms or at all. In such case, there is no guarantee that we will be able successfully raise additional equity capital at all or on terms that are favorable or otherwise not dilutive to existing shareholders.

Our use of derivative financial instruments may negatively affect our operations especially in a volatile and uncertain market.

We have used, and may continue to use, derivative financial instruments to manage the risk profile associated with interest rates and currency exposure of our debt, reduce our financing costs, access alternative sources of financing and hedge some of our financial risks. For the year ended December 31, 2008, we had a net loss of approximately Ps15,172 million from financial instruments as compared to a net gain of Ps2,387 million in 2007. These losses resulted from a variety of factors, including losses related to changes in the fair value of equity derivative instruments attributable to the generalized decline of price levels in the capital markets worldwide, losses related to changes in the fair value of cross-currency swaps and other currency derivatives attributable to the appreciation of the Dollar against the Euro and losses related to changes in the fair value of interest rate derivatives primarily attributable to the decrease in the five-year interest rates in Euros and Dollars.

As required in the context of our renegotiation with bank lenders, since the beginning of 2009, we have been reducing our derivatives notional amount, thereby reducing our risk to cash margin calls. This initiative includes closing a significant portion of notional amounts of derivatives instruments related to our debt (currency and interest rate derivatives) and the settlement of our inactive derivative financial instruments (see notes 11C and D to our consolidated financial statements), which we finalized during April 2009. As a result, we settled derivatives

contracts resulting in an aggregate loss of approximately U.S.$1,093 million, which, after netting approximately U.S.$624 million of cash margin deposits already posted in favor of our counterparties and cash payments of approximately U.S.$48 million, was documented through our issuance of promissory notes for approximately U.S.$421 million, which increased our outstanding debt.

In addition, in order to eliminate our exposure to Yen and to Yen interest rates, on May 22, 2009, we delivered the required notices under the documentation governing the dual-currency notes and the related perpetual debentures, informing the debenture holders of our decision to exercise our right to defer by one day the scheduled interest payment otherwise due and payable on June 30, 2009, the next scheduled interest payment date under the dual-currency notes and the related perpetual debentures. As a result, the interest rate on the dual-currency notes will convert from a Yen floating rate into a Dollar or Euro fixed rate, as applicable, as of June 30, 2009, and the associated Yen cross-currency swap derivatives will be unwound. Any resulting loss would be payable by us to our derivatives counterparties and any profit would be retained by the debenture issuers and applied to pay future coupon payments on the perpetual debentures. As of December 31, 2008, the aggregate notional amount of such derivatives expected to be unwound was approximately U.S.$3,020 million (see Item 5 — "Operating and Financial Review and Prospects — Our Perpetual Debentures"). As of the date of this annual report, the result of the unwinding of such cross-currency derivatives is unknown, but we estimate that if such unwind result is a loss, it will not have a material adverse effect on our financial position.

Most derivative financial instruments are subject to margin calls in case the threshold set by the counterparties is exceeded. In several scenarios, the cash required to cover margin calls may be substantial and may reduce the funds available to us for our operations or other capital needs. The mark-to-market changes in some of our derivative financial instruments are reflected in our income statement introducing volatility in our majority interest net income and our related ratios. In the current environment, the creditworthiness of our counterparties may deteriorate substantially, preventing them from honoring their obligations to us. We maintain equity derivatives which in a number of scenarios may require us to cover margin calls that could reduce our cash availability.

If we resume using derivative financial instruments, or with respect to our outstanding equity derivative positions, we may incur in net losses from our derivative financial instruments. See "Item 5 — Operating and Financial Review and Prospects — Recent Developments — Recent Developments Relating To Our Financial Derivatives Instruments".

A substantial amount of our total assets are intangible assets, including goodwill. We have recently recognized charges for goodwill impairment, and if market and industry conditions continue to deteriorate further impairment charges may be recognized. Our charges for impairment in 2008 were materially greater under U.S. GAAP than under MFRS.

As of December 31, 2008, approximately 34% of our total assets were intangible assets, 77% of which corresponded to goodwill.

Our consolidated financial statements have been prepared in accordance with MFRS, which, despite its similarities to U.S. GAAP with respect to the circumstances and timing for testing goodwill for impairment, differs in significant respects from U.S. GAAP with respect to the methodology used to determine the final impairment loss, when applicable, including the selection of key significant assumptions related to the determination of the assets' fair value. Pursuant to our policy under MFRS, goodwill and other intangible assets of indefinite life are tested for impairment when impairment indicators exist or at least once a year, during the last quarter of the period, by determining the value in use of the reporting units, which consists in the discounted amount of estimated future cash flows to be generated by the reporting units to which those assets relate. A reporting unit refers to a group of one or more cash generating units. An impairment loss is recognized if the value in use is lower than the net book value of the reporting unit. We determine the discounted amount of estimated future cash flows over a period of 5 years, unless a longer period is justified in a specific country, considering its economic cycle and the existing industry conditions. Impairment tests are significantly sensitive, among other factors, to the estimation of future prices of our products, trends in operating expenses, and local and international economic trends in the construction industry, as well as the long-term growth expectations in the different markets. Likewise, the discount rates and the rates of growth in perpetuity used have an effect on such impairment tests. Goodwill is recognized at the acquisition date based on the preliminary allocation of the purchase price. If applicable, goodwill is subsequently adjusted for any correction to the preliminary assessment given to the assets acquired and/or liabilities assumed, within the twelve-month period after purchase. Goodwill is not amortized and is subject to impairment tests at least once a year.

During the last quarter of 2008, the global economic environment was negatively affected, intensified by the crisis in financial institutions, which has caused financing scarcity in almost all productive sectors, resulting in a decrease in economic activity and a worldwide downturn in macroeconomic indicators. This effect has lowered the growth expectations within the countries in which we operate, as indicated by the cancellation or deferral of several investment projects, particularly affecting the construction industry. These conditions, which constitute an impairment indicator, coincided with our annual impairment tests. For the year ended December 31, 2008, we recognized goodwill impairment losses of approximately Ps18.3 billion (U.S.$1.3 billion), of which the impairment corresponding to the United States reporting unit was approximately Ps16.8 billion (U.S.$1.2 billion). The estimated impairment loss in the United States is mainly attributable to the acquisition of Rinker in 2007, and overall is attributable to the negative economic situation expected in the worldwide markets during 2009 and 2010 in the construction industry. Those factors significantly affected the variables included in the projections of estimated cash flows in comparison with valuations made at the end of 2007. See notes 2K and 10C to our consolidated financial statements included elsewhere in this annual report.

As mentioned above, differences between MFRS and U.S. GAAP with respect to the methodology used to determine the final impairment loss, when applicable, including the selection of key significant assumptions related to the determination of the assets' fair value, has led to a materially greater impairment loss under U.S. GAAP, as compared to that recognized in our consolidated financial statements under MFRS. For the year ended December 31, 2008, we recognized goodwill impairment losses under U.S. GAAP of approximately U.S.$4.7 billion (approximately U.S.$3.3 billion more than the goodwill impairment losses recognized under MFRS), of which the impairment corresponding to the United States reporting unit was approximately U.S.$4.5 billion (approximately U.S.$3.3 more than the goodwill impairment losses recognized under MFRS).

Due to the important role that economic factors play in testing goodwill for impairment, a further downturn in the global economy in 2009 could necessitate new impairment tests and a possible readjustment of our goodwill for impairment due to a change in the estimates of the values analyzed under any impairment test. Such an impairment test could result in additional impairment charges which could be material to our financial statements.

Our independent auditors have expressed substantial doubt about our ability to continue as a going concern.

During the last months of 2008 and the beginning of 2009, CEMEX's liquidity position and operating performance have been negatively affected by adverse economic and industry conditions as a result of the downturn in the global construction industry and the global credit market crisis. As mentioned in note 22 to our consolidated financial statements included elsewhere in this annual report, in connection with our bank debt refinancing process, important consolidated entities, including CEMEX, S.A.B. de C.V. and CEMEX España, S.A., are currently operating under the Conditional Waiver and Extension Agreement, under which bank lenders have agreed to extend specified scheduled principal payments originally due between March 24, 2009 and July 31, 2009. As of the date of this annual report, there are no assurances that we will be able to successfully complete the bank debt refinancing process.

Our access to funds to meet our obligations is, in part, dependent on the ultimate outcome of the bank debt refinancing process. In connection with this uncertainty and as described in note 22 to our consolidated financial statements, the independent auditors' report accompanying our consolidated financial statements, included herein, contains a paragraph expressing substantial doubt as to our ability to continue as a going concern. The 2008 consolidated financial statements do not include any adjustments to reflect the possible future effects on the recoverability and classification of recorded assets or the amounts and classification of liabilities or any other adjustment that might result from the outcome of this uncertainty. Our plans concerning these matters are discussed in note 22 and 23 to our consolidated financial statements.

We have to service our Dollar denominated obligations with revenues generated in Pesos or other currencies, as we do not generate sufficient revenue in Dollars from our operations to service all our Dollar denominated obligations. This could adversely affect our ability to service our obligations in the event of a devaluation or depreciation in the value of the Peso, or any of the other currencies of the countries in which we operate, compared to the Dollar. In addition, our consolidated reported results and outstanding indebtedness are significantly affected by fluctuations in exchange rates between the Peso and other currencies.

A substantial portion of our outstanding debt is denominated in Dollars. As of December 31, 2008, our Dollar denominated debt represented approximately 73% of our total debt (after giving effect to our currency-related derivatives as of such date). Our existing Dollar denominated debt, including the additional Dollar denominated debt we incurred to finance the acquisition of Rinker, however, must be serviced by funds generated from sales by our subsidiaries. Although the acquisition of Rinker increased our U.S. assets substantially, we nonetheless will continue to rely on our non-U.S. assets to generate revenues to service our Dollar denominated debt. Consequently, we have to use revenues generated in Pesos, Euros or other currencies to service our Dollar denominated debt. See "Item 5 — Operating and Financial Review and Prospects — Qualitative and Quantitative Market Disclosure — Interest Rate Risk, Foreign Currency Risk and Equity Risk — Foreign Currency Risk." A devaluation or depreciation in the value of the Peso, Euro or any of the other currencies of the countries in which we operate, compared to the Dollar, could adversely affect our ability to service our debt. During 2008, Mexico, Spain, the United Kingdom and the Rest of Europe region, our main non-Dollar-denominated operations, together generated approximately 52% of our total net sales in Peso terms (approximately 17%, 7%, 8% and 20%, respectively), before eliminations resulting from consolidation. In 2008, approximately 21% of our sales were generated in the United States, with the remaining 27% of our sales being generated in several countries, with a number of currencies having material depreciations against the Dollar. During 2008, the Peso depreciated approximately 26% against the Dollar, the Euro depreciated approximately 4% against the Dollar and the Pound Sterling depreciated approximately 36% against the Dollar. Although we have foreign exchange forward contracts and cross-currency swap contracts in place to mitigate our currency-related risks and expect to enter into future currency hedges, they may not be effective in covering all our currency-related risks.

In addition, as of December 31, 2008, our Euro denominated debt represented approximately 19% of our total debt, not including the €730 million principal amount of perpetual debentures outstanding as of such date. Although we believe that our generation of revenues in Euros from our operations in Spain and the Rest of Europe region will be sufficient to service these obligations, we cannot guarantee it.

As of December 31, 2008, we did not have a significant amount of debt denominated in Yen. However, in connection with our dual currency perpetual debentures and related currency swap transactions, we had interest and currency swap obligations in Yen. In order to eliminate our exposure to Yen and to Yen interest rates, on May 22, 2009, we delivered the required notices under the documentation governing the dual-currency notes and the related perpetual debentures, informing debenture holders of our decision to exercise our right to defer by one day the scheduled interest payment otherwise due and payable on June 30, 2009, the next scheduled interest payment date under the dual-currency notes and the related perpetual debentutres. As a result, the interest rate on the dual-currency notes will convert from Yen floating rate into Dollar or Euro fixed rate, as applicable, as of June 30, 2009, and the associated Yen cross-currency swap derivatives will be unwound. Any resulting loss would be payable by us to our derivatives counterparties and any profit would be retained by the debenture issuers and applied to pay future coupon payments on the perpetual debentures. As of December 31, 2008, the aggregate notional amount of such derivatives expected to be unwound was approximately U.S.$3,020 million (see Item 5 — "Operating and Financial Review and Prospects — Our Perpetual Debentures"). As of the date of this report, the result of the unwinding of such cross-currency derivatives is unknown but we estimate that if such unwind result is a loss, it will not have a material adverse effect on our financial position.

Our consolidated reported results for any period and our outstanding indebtedness as of any date are significantly affected by fluctuations in exchange rates between the Peso and other currencies, as those fluctuations influence the amount of our indebtedness when translated into Pesos and also result in foreign exchange gains and losses and gains and losses on derivative contracts we may have entered into to hedge our exchange rate exposure. In 2008, the Peso depreciated by 26% against the Dollar, and between January 1, 2009 and June 26, 2009, the Peso appreciated by 4.3% against the Dollar.

We are subject to litigation proceedings that could harm our business if an unfavorable ruling were to occur.

From time to time, we may become involved in litigation and other legal proceedings relating to claims arising from our operations in the normal course of business. As described in, but not limited to, "Item 4 — Information on the Company — Regulatory Matters and Legal Proceedings" of this annual report, we are currently subject to a number of significant legal proceedings, including, but not limited to, tax matters in Mexico and antitrust investigations in the U.K. and Germany. Litigation is subject to inherent uncertainties, and unfavorable rulings may occur. We cannot assure you that these or other legal proceedings will not materially affect our ability to conduct our business in the manner that we expect or otherwise adversely affect us should an unfavorable ruling occur. See "Item 4 — Information on the Company — Regulatory Matters and Legal Proceedings."

Our operations are subject to environmental laws and regulations.

Our operations are subject to laws and regulations relating to the protection of the environment in the various jurisdictions in which we operate, such as regulations regarding the release of cement dust into the air or emissions of greenhouse gases. Stricter laws and regulations, or stricter interpretation of existing laws or regulations, may impose new liabilities on us or result in the need for additional investments in pollution control equipment, either of which could result in a material decline in our profitability in the short term.

In addition, our operations in the United Kingdom, Spain and the Rest of Europe are subject to binding caps on carbon dioxide emissions imposed by Member States of the European Union as a result of the European Commission's directive implementing the Kyoto Protocol on climate change. Under this directive, companies receive from the relevant Member States allowances that set limitations on the levels of carbon dioxide emissions from their industrial facilities. These allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that are not reaching their emissions objectives. Failure to meet the emissions caps is subject to significant penalties. For the allocation period comprising 2008 through 2012, the European Commission significantly reduced the overall availability of allowances. As a result of continuing uncertainty regarding final allowances, it is premature to draw conclusions regarding the aggregate position of all our European cement plants.

We believe we may be able to reduce the impact of any deficit by either reducing carbon dioxide emissions in our facilities or by implementing clean development mechanism projects, or CDM projects, in emerging markets. If we are not successful in implementing emission reductions in our facilities or obtaining credits from CDM projects, we may have to purchase a significant amount of allowances in the market, the cost of which may have an impact on our operating results. See "Item 4 — Information on the Company — Regulatory Matters and Legal Proceedings."

To date, the United States has pursued a voluntary greenhouse gas (GHG) emissions reduction program to meet its obligations as a signatory to the United Nations Framework Convention on Climate Change. As a result of increased attention to climate change in the U.S., however, numerous bills have been introduced in recent sessions of the U.S. Congress that would reduce GHG emissions in the U.S. Enactment of climate change legislation within the next several years now seems likely. However, there is still significant uncertainty about the cost of complying with any future GHG emission requirements. These costs will depend upon many factors, including the required levels of GHG emission reductions, the timing of those reductions, the impact on fuel prices, whether emission allowances will be allocated with or without cost to existing generators, and whether flexible compliance mechanisms, such as a GHG offset program similar to those sanctioned under the CAA for conventional pollutants, will be part of the policy.

While debate continues at the national level over domestic climate policy and the appropriate scope and terms of any federal legislation, many states are developing state-specific measures or participating in regional legislative initiatives to reduce GHG emissions. At this point, we are unable to determine whether any of these proposals will be enacted into law or to estimate their potential effect on our operations.

On December 20, 2005, seven northeastern states entered into a Memorandum of Understanding to create a regional initiative to establish a cap-and-trade GHG program for electric generators, referred to as the Regional Greenhouse Gas Initiative (RGGI). In August 2006, the participating states issued a model rule to be used as a basis for individual state legislative and regulatory action to implement the program. The RGGI states (now numbering ten states) have passed laws and/or regulations to implement the RGGI program, which commenced in 2009.

Implementing regulations for such regional initiatives may be more stringent and costly than federal legislative proposals currently being debated in the U.S. Congress. It cannot yet be determined whether or to what extent any federal legislative system would preempt regional or state initiatives, although such preemption would greatly simplify compliance and eliminate regulatory duplication. If state and/or regional initiatives are allowed to stand together with federal legislation, generators could be required to purchase allowances to satisfy their state and federal compliance obligations.

Permits relating to some of Rinker's largest quarries in Florida, which represent a significant part of Rinker's business, are being challenged. A loss of these permits could adversely affect our business. See "Item 4 — Information on the Company — Regulatory Matters and Legal Proceedings — Environmental Matters."

We are subject to restrictions due to minority interests in our consolidated subsidiaries.

We conduct our business through subsidiaries. In some cases, third-party shareholders hold minority interests in these subsidiaries. Various disadvantages may result from the participation of minority shareholders whose interests may not always coincide with ours. Some of these disadvantages may, among other things, result in our inability to implement organizational efficiencies and transfer cash and assets from one subsidiary to another in order to allocate assets most effectively.

Higher energy and fuel costs may have a material adverse effect on our operating results.

Our operations consume significant amounts of energy and fuel, the cost of which has significantly increased worldwide in recent years. To mitigate high energy and fuel costs and volatility, we have implemented the use of alternative fuels such as tires, which has resulted in less vulnerability to price spikes. We have also implemented technical improvements in several facilities and entered into long term supply contracts of petcoke and electricity to mitigate price volatility. Despite these measures, we cannot assure you that our operations would not be materially adversely affected in the future if energy and fuel costs increase.

We are an international company and are exposed to risks in the countries in which we have significant operations or interests.

We are dependent, in large part, on the economies of the countries in which we market our products. The economies of these countries are in different stages of socioeconomic development. Consequently, like many other companies with significant international operations, we are exposed to risks from changes in foreign currency exchange rates, interest rates, inflation, governmental spending, social instability and other political, economic or social developments that may materially reduce our net income.

With the acquisitions of RMC Group PLC, or RMC, in 2005 and Rinker in 2007, our geographic diversity has significantly increased. As of December 31, 2008, we had operations in Mexico, the United States, the United Kingdom, Spain, the Rest of Europe region (including Germany and France), the South America, Central America and the Caribbean region, Africa and the Middle East, Australia and Asia. As of December 31, 2008, our Mexican operations represented approximately 11% of our total assets, our U.S. operations represented approximately 45% of our total assets, our Spanish operations represented approximately 10% of our total assets, our United Kingdom operations represented approximately 6% of our total assets, our Rest of Europe operations represented approximately 10% of our total assets, our South America, Central America and the Caribbean operations represented approximately 5% of our total assets, our Africa and the Middle East operations represented approximately 3% of our total assets, our Australian and Asia operations represented approximately 7% of our total assets and our other operations represented approximately 3% of our total assets. For the year ended December 31, 2008, before eliminations resulting from consolidation, our Mexican operations represented approximately 17% of our net sales, our U.S. operations represented approximately 21% of our net sales, our Spanish operations represented approximately 7% of our net sales, our United Kingdom operations represented approximately 8% of our net sales, our Rest of Europe operations represented approximately 20% of our net sales, our South America, Central America and the Caribbean operations represented approximately 9% of our net sales, our Africa and the Middle East operations represented approximately 5% of our net sales, our Australian and Asia operations

represented approximately 9% of our net sales and our other operations represented approximately 4% of our net sales. Adverse economic conditions in any of these countries or regions may produce a negative impact on our net income. For a geographic breakdown of our net sales for the year ended December 31, 2008, please see "Item 4 — Information on the Company — Geographic Breakdown of Our 2008 Net Sales."

Our operations in South America, Central America and the Caribbean are faced with several risks that are more significant than in other countries. These risks include political instability and economic volatility. For example, on August 18, 2008, Venezuelan officials took physical control of the facilities of CEMEX Venezuela, S.A.C.A. ("CEMEX Venezuela"), following the issuance on May 27, 2008 of governmental decrees confirming the expropriation of all of CEMEX Venezuela's assets, shares and business. Venezuela has paid no compensation to the CEMEX affiliates, CEMEX Caracas Investments B.V. and CEMEX Caracas Investments II B.V. (together, "CEMEX Caracas"), which held a 75.7 percent interest in CEMEX Venezuela, or to any other former CEMEX Venezuela shareholder. On October 16, 2008, CEMEX Caracas filed a request for arbitration against Venezuela before the International Centre for Settlement of Investment Disputes ("ICSID"), pursuant to the bilateral investment treaty between the Netherlands and Venezuela (the "Treaty"), seeking relief for the expropriation of their interest in CEMEX Venezuela. We are unable at this preliminary stage to estimate the likely range of potential recovery or to determine what position Venezuela will take in these proceedings, the nature of the award that may be issued by the Tribunal, and the difficulties of collection of any possible monetary award issued to CEMEX Caracas, among other matters. See "Item 4 — Information on the Company — Regulatory Matters and Legal Proceedings — Tax Matters — Nationalization of CEMEX Venezuela and ICSID Arbitration."

Our operations in Africa and the Middle East have faced instability as a result of, among other things, civil unrest, extremism, deterioration of Israeli-Palestinian relations and the war in Iraq. There can be no assurance that political turbulence in the Middle East will abate in the near future or that neighboring countries, including Egypt and the United Arab Emirates, will not be drawn into conflicts or experience instability.

There have been terrorist attacks in the United States, Spain and the United Kingdom, countries in which we maintain operations, and ongoing threats of future terrorist attacks in the United States and abroad. Although it is not possible at this time to determine the long-term effect of these terrorist threats, there can be no assurance that there will not be other attacks or threats in the United States or abroad that will lead to economic contraction or erection of material barriers to trade in the United States or any other of our major markets. Economic contraction in the United States or any of our major markets could affect domestic demand for cement and have a material adverse effect on our operations.

It may be difficult to enforce civil liabilities against us or our directors, executive officers and controlling persons.

We are a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) organized under the laws of Mexico. Substantially all our directors and officers and some of the experts named in this annual report reside in Mexico, and all or a significant portion of the assets of those persons may be, and the majority of our assets are, located outside the United States. As a result, it may not be possible for investors to effect service of process within the United States upon such persons or to enforce against them or against us in U.S. courts judgments predicated upon the civil liability provisions of the federal securities laws of the United States. We have been advised by our General Counsel, Ramiro G. Villarreal, that there is doubt as to the enforceability in Mexico, either in original actions or in actions for enforcement of judgments of U.S. courts, of civil liabilities predicated on the U.S. federal securities laws.

Our operations can be affected by adverse weather conditions.

Construction activity, and thus demand for our products, decreases substantially during periods of cold weather, when it snows or when heavy or sustained rainfalls occur. Consequently, demand for our products is significantly lower during the winter in temperate countries and during the rainy season in tropical countries. Winter weather in our European and North American operations significantly reduces our first quarter sales volumes, and to a lesser extent our fourth quarter sales volumes. Sales volumes in these and similar markets generally increase during the second and third quarters because of normally better weather conditions. However, high levels of rainfall can adversely affect our operations during these periods as well. Such adverse weather conditions can adversely affect our results of operations and profitability if they occur with unusual intensity, during abnormal periods, or last longer than usual in our major markets, especially during peak construction periods.

Preemptive rights may be unavailable to ADS holders.

ADS holders may be unable to exercise preemptive rights granted to our shareholders, in which case ADS holders could be substantially diluted. Under Mexican law, whenever we issue new shares for payment in cash or in kind, we are generally required to grant preemptive rights to our shareholders. However, ADS holders may not be able to exercise these preemptive rights to acquire new shares unless both the rights and the new shares are registered in the United States or an exemption from registration is available.

We cannot assure you that we would file a registration statement in the United States at the time of any rights offering. In addition, while the depositary is permitted, if lawful and feasible at that time, to sell those rights and distribute the proceeds of that sale to ADS holders who are entitled to those rights, current Mexican law does not permit sales of that kind.

Mexican Peso Exchange Rates

Mexico has had no exchange control system in place since the dual exchange control system was abolished on November 11, 1991. The Mexican Peso has floated freely in foreign exchange markets since December 1994, when the Mexican Central Bank (*Banco de México*) abandoned its prior policy of having an official devaluation band. Since then, the Peso has been subject to substantial fluctuations in value. The Peso appreciated against the Dollar by approximately 1% and 5% in 2004 and 2005, respectively, depreciated against the Dollar by approximately 2% in 2006, depreciated against the Dollar by approximately 1% in 2007 and depreciated against the Dollar by approximately 26% in 2008. These percentages are based on the exchange rate that we use for accounting purposes, or the CEMEX accounting rate. The CEMEX accounting rate represents the average of three different exchange rates that are provided to us by Banco Nacional de México, S.A., or Banamex. For any given date, the CEMEX accounting rate may differ from the noon buying rate for Pesos in New York City published by the U.S. Federal Reserve Bank of New York.

The following table sets forth, for the periods and dates indicated, the end-of-period, average and high and low points of the CEMEX accounting rate as well as the noon buying rate for Pesos, expressed in Pesos per U.S.$1.00.

	CEMEX Accounting Rate				Noon Buying Rate			
	End of Period	Average(1)	High	Low	End of Period	Average(1)	High	Low
Year ended December 31,								
2004	11.14	11.29	11.67	10.81	11.15	11.29	11.64	10.81
2005	10.62	10.85	11.38	10.42	10.63	10.89	11.41	10.41
2006	10.80	10.91	11.49	10.44	10.80	10.90	11.46	10.43
2007	10.92	10.93	11.07	10.66	10.92	10.93	11.27	10.67
2008	13.74	11.21	13.96	9.87	13.83	11.15	13.92	9.92
Monthly (2008-2009)								
November	13.40	13.15	13.96	12.49	13.32	13.11	13.92	12.49
December	13.74	13.45	13.83	13.03	13.83	13.42	13.83	13.12
January	14.35	13.89	14.36	13.37	14.31	13.89	14.31	13.35
February	15.26	14.64	15.25	14.20	15.09	14.61	15.09	14.13
March	14.17	14.66	15.57	13.96	14.21	14.65	15.41	14.02
April	13.80	13.43	14.05	13.02	13.80	13.39	13.89	13.05
May	13.14	13.21	13.86	12.97	13.18	13.19	13.82	12.88

(1) The average of the CEMEX accounting rate or the noon buying rate for Pesos, as applicable, on the last day of each full month during the relevant period.

On June 26, 2009, the CEMEX accounting rate was Ps13.22 to U.S.$1.00. Between January 1, 2009 and June 26, 2009, the Peso appreciated by 3.8% against the Dollar.

For a discussion of the financial treatment of our operations conducted in other currencies, see "Item 3 — Key Information —Selected Consolidated Financial Information."

Selected Consolidated Financial Information

The financial data set forth below as of and for each of the five years ended December 31, 2008 have been derived from our audited consolidated financial statements. The financial data set forth below as of December 31, 2008 and 2007 and for each of the three years ended December 31, 2008, have been derived from, and should be read in conjunction with, and are qualified in their entirety by reference to, the consolidated financial statements and the notes thereto included elsewhere in this annual report. Our audited consolidated financial statements for the year ended December 31, 2008 were approved by our shareholders at the 2009 annual general meeting (which took place on April 23, 2009).

The operating results of newly acquired businesses are consolidated in our financial statements beginning on the acquisition date. Therefore, all periods presented do not include operating results corresponding to newly acquired business before we assumed operating control. As a result, the financial data for the years ended December 31, 2004, 2005, 2006, 2007 and 2008 may not be comparable to that of prior periods.

The acquisition date of RMC was March 1, 2005. Our consolidated financial information for the year ended December 31, 2005 includes RMC's results of operations for the ten-month period ended December 31, 2005.

The acquisition date of Rinker was July 1, 2007. Our consolidated financial information for the year ended December 31, 2007 includes Rinker's results of operations for the six-month period ended December 31, 2007.

Our consolidated financial statements included elsewhere in this annual report have been prepared in accordance with MFRS, which differ in significant respects from U.S. GAAP.

Beginning on January 1, 2008, according to new MFRS B-10, inflationary accounting will only be applied in a high-inflation environment, defined by the MFRS B-10 as existing when the cumulative inflation for the preceding three years equals or exceeds 26%. Until December 31, 2007, inflationary accounting was applied to all CEMEX subsidiaries regardless of the inflation level of their respective country. Beginning in 2008, only the financial statements of those subsidiaries whose functional currency corresponds to a country under high inflation will be restated to take account of inflation. Designation of a country as a high or low inflation environment takes place at the end of each year and inflation is applied prospectively. As of December 31, 2007, except for Venezuela and Costa Rica, all of CEMEX's subsidiaries operated in low-inflation environment; therefore, restatement of their historical cost financial statements to take account of inflation was suspended starting on January 1, 2008.

Beginning in 2008, MFRS B-10 eliminates the restatement of financial statements for the period as well as the comparative financial statements for prior periods into constant values as of the date of the most recent balance sheet. Beginning in 2008, the amounts of the income statement, statement of cash flow and statement of changes in stockholders' equity are presented in nominal values; meanwhile, amounts of financial statements for prior years are presented in constant Pesos as of December 31, 2007, the last date in which inflationary accounting was applied. Until such date, the restatement factors for current and prior periods were calculated considering the weighted average inflation of the countries in which we operate and the changes in the exchange rates of each of these countries relative to the Mexican Peso, weighted according to the proportion that our assets in each country represent of our total assets.

The following table reflects the factors that have been used to restate the originally reported Pesos to Pesos of constant purchasing power as of December 31, 2007:

	Annual Weighted Average Factor	Cumulative Weighted Average Factor to December 31, 2007
2004	0.9590	1.1339
2005	1.0902	1.1824
2006	1.0846	1.0846

Non-Peso amounts included in the financial statements are first translated into Dollar amounts, in each case at a commercially available or an official government exchange rate for the relevant period or date, as applicable, and those Dollar amounts are then translated into Peso amounts at the CEMEX accounting rate, described under "Mexican Peso Exchange Rates," as of the relevant period or date, as applicable.

The Dollar amounts provided below and, unless otherwise indicated, elsewhere in this annual report, are translations of Peso amounts at an exchange rate of Ps13.74 to U.S.$1.00, the CEMEX accounting rate as of December 31, 2008. However, in the case of transactions conducted in Dollars, we have presented the Dollar amount of the transaction and the corresponding Peso amount that is presented in our consolidated financial statements. These translations have been prepared solely for the convenience of the reader and should not be construed as representations that the Peso amounts actually represent those Dollar amounts or could be converted into Dollars at the rate indicated. The noon buying rate for Pesos on December 31, 2008 was Ps13.83 to U.S.$1.00. From December 31, 2008 through June 26, 2009, the Peso appreciated by approximately 4.3% against the Dollar, based on the noon buying rate for Pesos.

CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Selected Consolidated Financial Information

	As of and for the year ended December 31,				
	2004	2005	2006	2007	2008
	(in millions of Pesos, except ratios and share and per share amounts)				
Income Statement Information:					
Net sales	Ps102,945	Ps192,392	Ps213,767	Ps236,669	Ps243,201
Cost of sales(1)	(57,936)	(116,422)	(136,447)	(157,696)	(166,214)
Gross profit	45,009	75,970	77,320	78,973	76,987
Operating expenses	(21,617)	(44,743)	(42,815)	(46,525)	(49,103)
Operating income	23,392	31,227	34,505	32,448	27,884
Other expense, net(2)	(6,487)	(3,976)	(580)	(3,281)	(21,496)
Comprehensive financing result(3)	1,683	3,076	(505)	1,087	(28,725)
Equity in income of associates	506	1,098	1,425	1,487	1,098
Income before income tax	19,094	31,425	34,845	31,741	(21,239)
Minority interest	265	692	1,292	837	45
Majority interest net income	16,512	26,519	27,855	26,108	2,278
Basic earnings per share(4)(5)	0.82	1.28	1.29	1.17	0.10
Diluted earnings per share(4)(5)	0.82	1.27	1.29	1.17	0.10
Dividends per share(4)(6)(7)	0.25	0.27	0.28	0.29	N/A
Number of shares outstanding(4)(8)	20,372	21,144	21,987	22,297	22,985
Balance Sheet Information:					
Cash and temporary investments	4,324	7,552	18,494	8,670	13,604
Net working capital(9)	6,633	15,920	10,389	16,690	18,091
Property, machinery and equipment, net	121,439	195,165	201,425	262,189	281,858
Total assets	219,559	336,081	351,083	542,314	623,622
Short-term debt	13,185	14,954	14,657	36,257	95,270
Long-term debt	61,731	104,061	73,674	180,654	162,824
Minority interest and perpetual debentures(11)	4,913	6,637	22,484	40,985	46,575
Total majority stockholders' equity	98,919	123,381	150,627	163,168	190,692
Book value per share(4)(8)(12)	4.86	5.84	6.85	7.32	8.30
Other Financial Information:					
Operating margin	22.7%	16.2%	16.1%	13.7%	11.5%
Operating EBITDA(13)	32,064	44,672	48,466	49,859	48,748
Ratio of Operating EBITDA to interest expense, capital securities dividends and preferred equity dividends(13)	6.82	6.76	8.38	5.66	4.77
Investment in property, machinery and equipment, net	5,483	9,862	16,067	21,779	21,248
Depreciation and amortization	10,830	13,706	13,961	17,666	20,864
Net cash flow provided by operating activities(14)	27,915	43,080	47,845	45,625	31,272
Basic earnings per CPO(4)(5)	2.46	3.84	3.87	3.51	0.30

	As of and for the year ended December 31,				
	2004	2005	2006	2007	2008
	(in millions of Pesos, except per share amounts)				
U.S. GAAP(15):					
Income Statement Information:					
Net sales	Ps100,163	Ps172,632	Ps203,660	Ps235,258	Ps242,341
Operating income (loss)(10)	18,442	27,038	32,804	29,844	(40,504)
Majority net income (loss)	20,027	23,933	26,384	21,367	(61,886)
Basic earnings (loss) per share	1.01	1.15	1.23	0.96	(2.69)
Diluted earnings (loss) per share	1.00	1.14	1.23	0.96	(2.69)
Balance Sheet Information:					
Total assets	230,027	317,896	351,927	563,565	605,081
Perpetual debentures(11)	—	—	14,037	33,470	41,495
Long-term debt(11)	48,645	89,402	69,375	164,515	162,829
Minority interest	5,057	6,200	7,581	8,010	5,105
Total majority stockholders' equity	103,257	120,539	153,239	172,217	151,294

(1) Cost of sales includes depreciation. Our cost of sales excludes freight expenses of finished products from our producing plants to our selling points, the expenses related to personnel and equipment comprising our selling network and those expenses related to warehousing at the points of sale, which are included as part of our administrative and selling expenses line item. Likewise, cost of sales excludes freight expenses from the points of sale to the customers' locations, which are included as part of our distribution expenses line item.

(2) Beginning in 2007, current and deferred Employees' Statutory Profit Sharing ("ESPS") is included within "Other expense, net." Until December 31, 2006, ESPS was presented in a specific line item within the income taxes section of the income statement. The "Selected Consolidated Financial Information" data for 2004, 2005 and 2006 were reclassified to conform with the presentation required beginning in 2007.

(3) Comprehensive financing result includes financial expenses, financial income, results from financial instruments, including derivatives and marketable securities, foreign exchange result and monetary position result. See Item 5 — "Operating and Financial Review and Prospects."

(4) Our capital stock consists of series A shares and series B shares. Each of our CPOs represents two series A shares and one series B share. As of December 31, 2008, approximately 97.2% of our outstanding share capital was represented by CPOs. Each of our American Depositary Shares, or ADSs, represents ten CPOs.

(5) Earnings per share are calculated based upon the weighted average number of shares outstanding during the year, as described in note 18 to the consolidated financial statements included elsewhere in this annual report. Basic earnings per CPO is determined by multiplying the basic earnings per share for each period by three (the number of shares underlying each CPO). Basic earnings per CPO is presented solely for the convenience of the reader and does not represent a measure under MFRS.

(6) Dividends declared at each year's annual shareholders' meeting are reflected as dividends of the preceding year.

(7) With the exception of the 2008 fiscal year, in recent years, our board of directors has proposed, and our shareholders have approved, dividend proposals, whereby our shareholders have had a choice between stock dividends or cash dividends declared in respect of the prior year's results, with the stock issuable to shareholders who receive the stock dividend being issued at a 20% discount from then current market prices. The dividends declared per share or per CPO in these years, expressed in Pesos, were as follows: 2004, Ps0.69 per CPO (or Ps0.23 per share); 2005, Ps0.75 per CPO (or Ps0.25 per share); 2006, Ps0.81 per CPO (or Ps0.27 per share); 2007, Ps0.84 per CPO (or Ps0.28 per share); and 2008, Ps0.87 per CPO (or Ps0.29 per share). As a result of dividend elections made by shareholders, in 2004, Ps191 million in cash was paid and approximately 300 million additional CPOs were issued in respect of dividends declared for the 2003 fiscal year; in 2005, Ps449 million in cash was paid and approximately 266 million additional CPOs were issued in respect of dividends declared for the 2004 fiscal year; in 2006, Ps161 million in cash was paid and approximately 212 million additional CPOs were issued in respect of dividends declared for the 2005 fiscal year; in 2007, Ps147 million in cash was paid and approximately 189 million additional CPOs were issued in respect of dividends declared for the 2006 fiscal year; and in 2008, Ps214 million in cash was paid and approximately 284 million additional CPOs were issued in respect of dividends declared for the 2007 fiscal year. For purposes of the table, dividends declared at each year's annual shareholders' meeting for each period are reflected as dividends for the preceding year. We did not declare a dividend for fiscal year 2008. At our 2009 annual shareholders' meeting, held on April 23, 2009, our shareholders approved a recapitalization of retained earnings. New CPOs issued pursuant to the recapitalization have been allocated to shareholders on a pro-rata basis. As of June 3, 2009, a total of 334,415,200 CPOs, representing 99.97% of all CPOs authorized for issuance at the shareholders' meeting, had been issued. CPO holders received one new CPO for each 25 CPOs held and ADS holders received one new ADS for each 25 ADSs held. There was no cash distribution and no entitlement to fractional shares.

(8) Based upon the total number of shares outstanding at the end of each period, expressed in millions of shares, and includes shares subject to financial derivative transactions, but does not include shares held by our subsidiaries.

(9) Net working capital equals trade receivables, less allowance for doubtful accounts plus inventories, net, less trade payables.

(10) Operating loss under U.S. GAAP for the year ended December 31, 2008 includes impairment losses of approximately Ps67,202 million (US$4,891 million). See note 25 to our consolidated financial statements included elsewhere in this annual report.

(11) Minority interest, as of December 31, 2006, 2007 and 2008, includes U.S.$1,250 million (Ps14,642 million), U.S.$3,065 million (Ps33,470 million) and U.S.$3,020 million (Ps41,495 million), respectively, that represents the nominal amount of the fixed-to-floating rate callable perpetual debentures, denominated in Dollars and Euros, issued by consolidated entities. In accordance with MFRS, these securities qualify as equity due to their perpetual nature and the option to defer the coupons. However, for purposes of our U.S. GAAP reconciliation, we record these debentures as debt and coupon payments thereon as part of financial expenses in our income statement.

(12) Book value per share is calculated by dividing the total majority stockholders' equity by the number of shares outstanding.

(13) Operating EBITDA equals operating income before amortization expense and depreciation. Under MFRS, until December 31, 2004, amortization of goodwill was recognized as part of other expenses, net. Commencing January 1, 2005, MFRS ceased amortization of goodwill and CEMEX assesses goodwill for impairment annually unless events occur that require more frequent reviews. Discounted cash flow analyses are used to assess goodwill impairment, as described in note 10C to the consolidated financial statements included elsewhere in this annual report. Operating EBITDA and the ratio of Operating EBITDA to interest expense are presented herein because we believe that they are widely accepted as financial indicators of our ability to internally fund capital expenditures and service or incur debt. Operating EBITDA and such ratios should not be considered as indicators of our financial performance, as alternatives to cash flow, as measures of liquidity or as being comparable to other similarly titled measures of other companies. Operating EBITDA is reconciled below to operating income under MFRS before giving effect to any minority interest, which we consider to be the most comparable measure as determined under MFRS. Interest expense under MFRS does not include coupon payments and issuance costs of the perpetual debentures issued by consolidated entities of approximately Ps152 million for 2006, approximately Ps1,847 million for 2007 and approximately Ps2,596 million for 2008, as described in note 15D to the consolidated financial statements included elsewhere in this annual report.

	For the year ended December 31,				
	2004	2005	2006	2007	2008
	(in millions of Pesos and Dollars)				
Reconciliation of Operating EBITDA to operating income					
Operating EBITDA	Ps32,064	Ps44,672	Ps48,466	Ps49,859	Ps48,748
Less:					
Depreciation and amortization expense	8,672	13,445	13,961	17,411	20,864
Operating income	Ps23,392	Ps31,227	Ps34,505	Ps32,448	Ps27,884

(14) For the four years ended December 31, 2007, statements of cash flows were not required under MFRS; therefore net resources provided by operating activities included in this item for such years refer to the Statements of Changes in Financial Position and represent majority interest net income plus items not affecting cash flow plus investment in working capital excluding effects from acquisitions and including inflation effects and unrealized foreign exchange effects. See note 2A to our consolidated financial statements included elsewhere in this annual report.

(15) We have restated the information at and for the years ended December 31, 2004, 2005 and 2006 under U.S. GAAP using the inflation factor derived from the national consumer price index, or NCPI, in Mexico, as required by Regulation S-X under the U.S. Securities Exchange Act of 1934, or the Exchange Act, instead of using the weighted average restatement factors used by us until December 31, 2007 according to MFRS and applied to the information presented under MFRS of prior years. These figures are presented in constant Pesos as of December 31, 2007, the last date in which inflationary accounting was applied (see note 2A to our consolidated financial statements included elsewhere in this annual report). The amounts for the year ended December 31, 2008 are presented in nominal Pesos.

Item 4 - Information on the Company

Unless otherwise indicated, references in this annual report to our sales and assets, including percentages, for a country or region are calculated before eliminations resulting from consolidation, and thus include intercompany balances between countries and regions. These intercompany balances are eliminated when calculated on a consolidated basis.

Business Overview

We are a publicly traded stock corporation with variable capital, or *sociedad anónima bursátil de capital variable*, organized under the laws of the United Mexican States, or Mexico, with our principal executive offices in Av. Ricardo Margáin Zozaya #325, Colonia Valle del Campestre, Garza García, Nuevo León, México 66265. Our main phone number is (011-5281) 8888-8888. CEMEX's agent for service, exclusively for actions brought by the Securities and Exchange Commission pursuant to the requirements of the United States Federal securities laws, is CEMEX, Inc., located at 840 Gessner Road, Suite 1400, Houston, Texas 77024.

CEMEX was founded in 1906 and was registered with the Mercantile Section of the Public Register of Property and Commerce in Monterrey, N.L., Mexico, on June 11, 1920 for a period of 99 years. At our 2002 annual shareholders' meeting, this period was extended to the year 2100. Beginning April 2006, CEMEX's full legal and commercial name is CEMEX, Sociedad Anónima Bursátil de Capital Variable, or CEMEX, S.A.B. de C.V.

As of December 31, 2008, we were the third largest cement company in the world, based on installed capacity of approximately 95.6 million tons. As of December 31, 2008, we were the largest ready-mix concrete company in the world with annual sales volumes of approximately 77.3 million cubic meters, and one of the largest aggregates companies in the world with annual sales volumes of approximately 241 million tons, in each case based on our annual sales volumes in 2008. We are also one of the world's largest traders of cement and clinker, having traded approximately 9 million tons of cement and clinker in 2008. We are a holding company primarily engaged, through our operating subsidiaries, in the production, distribution, marketing and sale of cement, ready-mix concrete, aggregates and clinker.

We are a global cement manufacturer with operations in North America, Europe, South America, Central America, the Caribbean, Africa, the Middle East, Australia and Asia. As of December 31, 2008, we had total assets of approximately Ps623,622 million (U.S.$45,387 million) and an equity market capitalization of approximately Ps98,827 million (U.S.$7,193 million).

As of December 31, 2008, our main cement production facilities were located in Mexico, the United States, Spain, the United Kingdom, Germany, Poland, Croatia, Latvia, Colombia, Costa Rica, the Dominican Republic, Panama, Nicaragua, Puerto Rico, Egypt, the Philippines and Thailand. As of December 31, 2008, our assets, cement plants and installed capacity, on an unconsolidated basis by region, were as set forth below. Installed capacity, which refers to theoretical annual production capacity, represents gray cement equivalent capacity, which counts each ton of white cement capacity as approximately two tons of gray cement capacity. The table below also includes our proportional interest in the installed capacity of companies in which we hold a minority interest.

	As of December 31, 2008		
	Assets after eliminations (in billions of Pesos)	Number of Cement Plants	Installed Capacity (millions of tons per annum)
North America			
Mexico	66	15	29.2
United States	278	14	17.5
Europe			
Spain	62	8	11.4
United Kingdom	38	3	2.8
Rest of Europe	62	8	11.6
South America, Central America and the Caribbean	32	11	11.2
Africa and the Middle East	20	1	5.3
Australia and Asia			
Australia	31	—	0.9
Asia	11	4	5.7
Cement and Clinker Trading Assets and Other Operations	24	—	—

In the above table, "Rest of Europe" includes our subsidiaries in Germany, France, Ireland, Poland, Croatia, Austria, Hungary, the Czech Republic, Latvia and other assets in the European region, and, for purposes of the columns labeled "Assets" and "Installed Capacity," includes our 33% interest, as of December 31, 2008, in a Lithuanian cement producer that operated one cement plant with an installed capacity of 1.3 million tons as of December 31, 2008. In the above table, "South America, Central America and the Caribbean" includes our

subsidiaries in Colombia, Costa Rica, the Dominican Republic, Panama, Nicaragua, Puerto Rico, Guatemala, Argentina and other assets in the Caribbean region. In the above table, "Africa and the Middle East" includes our subsidiaries in Egypt, the United Arab Emirates and Israel. In the above table, "Australia" includes 0.9 million cement tons of annual installed capacity corresponding to our 25% interest in the Cement Australia Holdings Pty Limited joint venture, which operated four cement plants, with a total cement installed capacity of approximately 3.8 million tons per year, and "Asia" includes our subsidiaries in the Philippines, Thailand, Malaysia, Bangladesh and other assets in the Asian region. See "Item 5 — Operating and Financial Review and Prospects — Recent Developments — Recent Developments Relating to Our Planned Divestitures of Assets."

During the last two decades, we embarked on a major geographic expansion program to diversify our cash flows and enter markets whose economic cycles within the cement industry largely operate independently from those of Mexico and which offer long-term growth potential. We have built an extensive network of marine and land-based distribution centers and terminals that give us marketing access around the world. The following have been our most significant acquisitions over the last five years:

- On July 1, 2007, we completed for accounting purposes the acquisition of 100% of the Rinker shares for a total consideration of approximately U.S.$14.2 billion (excluding the assumption of approximately U.S.$1.3 billion of Rinker's debt). Rinker, headquartered in Australia, was a leading international producer and supplier of materials, products and services used primarily in the construction industry, with operations primarily in the United States and Australia, and limited operations in China. As of March 31, 2006, Rinker had over 14,000 employees. Rinker operations in the United States consisted of two cement plants located in Florida with an installed capacity of 1.9 million tons of cement and 172 ready-mix concrete plants. In Australia, through its Readymix subsidiary, Rinker operated 344 operating plants including 84 quarries and sand mines, 243 concrete plants and 17 concrete pipe and product plants, as of such date. In China, through its Readymix subsidiary, Rinker operated four concrete plants in the northern cities of Tianjin and Qingdao.
- On March 1, 2005, we completed our acquisition of RMC for a total purchase price of approximately U.S.$4.3 billion, excluding approximately U.S.$2.2 billion of assumed debt. RMC, headquartered in the United Kingdom, was one of Europe's largest cement producers and one of the world's largest suppliers of ready-mix concrete and aggregates, with operations in 22 countries, primarily in Europe and the United States, and employed over 26,000 people. The assets acquired included 13 cement plants with an approximate installed capacity of 17 million tons, located in the United Kingdom, the United States, Germany, Croatia, Poland and Latvia.

As part of our strategy, we periodically review and reconfigure our operations in implementing our post-merger integration process, and we sometimes divest assets that we believe are less important to our strategic objectives. The following have been our most significant divestitures and reconfigurations over the last five years:

- On December 26, 2008, we sold our Canary Islands operations (consisting of cement and ready-mix concrete assets in Tenerife and 50% of the shares in two joint-ventures, Cementos Especiales de las Islas, S.A. (CEISA) and Inprocoi, S.L.) to several Spanish subsidiaries of Cimpor Cimentos de Portugal SGPS, S.A. for €162 million (approximately U.S.$227 million).
- On July 31, 2008, we agreed to sell our operations in Austria (consisting of 26 aggregates and 41 ready-mix concrete plants) and Hungary (consisting of 6 aggregates, 29 ready-mix concrete and 4 paving stone plants) to Strabag SE, one of Europe's leading construction and building materials groups, for €310 million (approximately U.S.$433 million). On February 11, 2009, the HCC approved the sale subject to the condition that the purchaser sell the ready-mix concrete plant operating in Salgótarján to a third party within the next year. The transaction is still subject to regulatory approval by the Austrian competition authorities. The purchaser has appealed several conditions imposed by the Austrian competition authorities, which we expect will delay the completion of the sale by at least two months.

- During 2008, we sold in several transactions our operations in Italy consisting of four cement grinding mill facilities for an aggregate amount of approximately €148 million (approximately U.S.$210 million).
- As required by the Antitrust Division of the United States Department of Justice, pursuant to a divestiture order in connection with the Rinker acquisition, in December 2007, we sold to the Irish producer CRH plc, ready-mix concrete and aggregates plants in Arizona and Florida for approximately U.S.$250 million, of which approximately U.S.$30 million corresponded to the sale of assets from our pre-Rinker acquisition operations.
- During 2006 we sold our 25.5% interest in the Indonesian cement producer PT Semen Gresik for approximately U.S.$346 million including dividends declared of approximately U.S.$7 million.
- On March 2, 2006, we sold 4K Beton A/S, our Danish subsidiary, which operated 18 ready-mix concrete plants in Denmark, to Unicon A/S, a subsidiary of Cementir Group, an Italian cement producer, for approximately €22 million (approximately U.S.$29 million). As part of the transaction, we purchased from Unicon A/S two companies engaged in the ready-mix concrete and aggregates business in Poland for approximately €12 million (approximately U.S.$16 million). We received net cash proceeds of approximately €6 million (approximately U.S.$8 million), after cash and debt adjustments, from this transaction.
- On December 22, 2005, we terminated our 50/50 joint ventures with Lafarge Asland in Spain and Portugal, which we acquired in the RMC acquisition. Under the terms of the termination agreement, Lafarge Asland received a 100% interest in both joint ventures and we received approximately U.S.$61 million in cash, as well as 29 ready-mix concrete plants and five aggregates quarries in Spain.
- As a condition to closing the RMC acquisition, we agreed with the U.S. Federal Trade Commission, or FTC, to divest several ready-mix concrete and related assets. On August 29, 2005, we sold RMC's operations in the Tucson, Arizona area to California Portland Cement Company for a purchase price of approximately U.S.$16 million.
- On January 11, 2008, in connection with the assets acquired from Rinker (see note 8A to our consolidated financial statements included elsewhere in this annual report), and as part of our agreements with Ready Mix USA, Inc., or Ready Mix USA, a privately owned ready-mix concrete producer with operations in the Southeastern United States (described below), CEMEX contributed and sold to Ready Mix USA, LLC, our ready-mix concrete joint venture with Ready Mix USA (described below) certain assets located in Georgia, Tennessee and Virginia, which had a fair value of approximately U.S.$437 million. We received U.S.$120 million in cash for the assets sold to Ready Mix USA, LLC, and the remaining assets were treated as a U.S.$260 million contribution by us to Ready Mix USA, LLC. As part of the same transaction, Ready Mix USA contributed U.S.$125 million in cash to Ready Mix USA, LLC, which in turn received bank loans of U.S.$135 million. Ready Mix USA, LLC made a special distribution in cash to us of U.S.$135 million. Ready Mix USA manages all the assets acquired. Following this transaction, Ready Mix USA, LLC continues to be owned 50.01% by Ready Mix USA and 49.99% by CEMEX.
- On July 1, 2005, we and Ready Mix USA established two jointly-owned limited liability companies, CEMEX Southeast, LLC, a cement company, and Ready Mix USA, LLC, a ready-mix concrete company, to serve the construction materials market in the southeast region of the United States. Under the terms of the limited liability company agreements and related asset contribution agreements, we contributed two cement plants (Demopolis, Alabama and Clinchfield, Georgia) and 11 cement terminals to CEMEX Southeast, LLC, representing approximately 98% of its contributed capital, while Ready Mix USA contributed cash to CEMEX Southeast, LLC representing approximately 2% of its contributed capital. In addition, we contributed our ready-mix concrete, aggregates and concrete block assets in the Florida panhandle and southern Georgia to Ready Mix USA, LLC, representing approximately 9% of its contributed capital, while Ready Mix USA contributed all its ready-mix concrete and aggregate operations in Alabama, Georgia, the Florida panhandle and Tennessee, as well

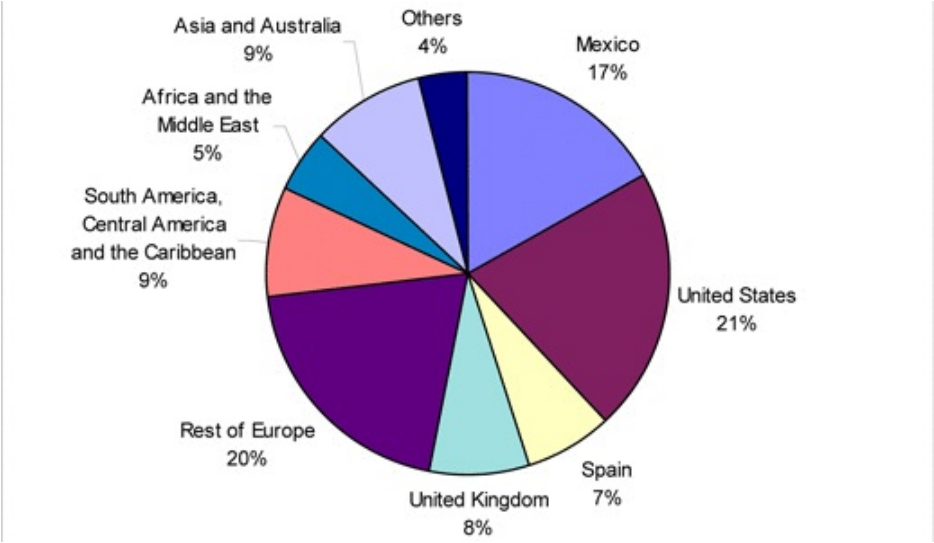
as its concrete block operations in Arkansas, Tennessee, Mississippi, Florida and Alabama to Ready Mix USA, LLC, representing approximately 91% of its contributed capital. We own a 50.01% interest, and Ready Mix USA owns a 49.99% interest, in the profits and losses and voting rights of CEMEX Southeast, LLC, while Ready Mix USA owns a 50.01% interest, and we own a 49.99% interest, in the profits and losses and voting rights of Ready Mix USA, LLC. In a separate transaction, on September 1, 2005, we sold 27 ready-mix concrete plants and four concrete block facilities located in the Atlanta, Georgia metropolitan area to Ready Mix USA, LLC for approximately U.S.$125 million.

- On April 26, 2005, we sold our 11.9% interest in the Chilean cement producer Cementos Bio Bio, S.A., for approximately U.S.$65 million.
- On March 31, 2005, we sold our Charlevoix, Michigan and Dixon, Illinois cement plants and several distribution terminals located in the Great Lakes region to Votorantim Participações S.A., a cement company in Brazil, for approximately U.S.$413 million. The combined capacity of the two cement plants sold was approximately two million tons per year, and the operations of these plants represented approximately 9% of our U.S. operations' operating cash flow for the year ended December 31, 2004.

In connection with our ongoing efforts to strengthen our capital structure and regain financial flexibility, we recently began a process aimed at divesting several assets management regards as non-core. In addition to our 2008 sales of our Canary Islands and Italian operations, and our agreement to sell our Austrian and Hungary operations mentioned above, we recently announced an agreement to sell our Australian operations, and we are currently engaged in marketing for sale additional non-core assets in our portfolio. See "Item 3 — Key Information — Risk Factors — Our ability to comply with our upcoming debt maturities may depend on our making asset sales, and there is no assurance that we will be able to execute such sales on terms favorable to us or at all" and "Item 5 — Operating and Financial Review and Prospects — Recent Developments — Recent Developments Relating to Our Planned Divestitures of Assets."

Geographic Breakdown of Our 2008 Net Sales

The following chart indicates the geographic breakdown of our net sales, before eliminations resulting from consolidation, for the year ended December 31, 2008:



For a description of a breakdown of total revenues by geographic markets for each of the years ended December 31, 2006, 2007 and 2008, please see "Item 5 — Operating and Financial Review and Prospects."

Our Production Processes

Cement is a binding agent, which, when mixed with sand, stone or other aggregates and water, produces either ready-mix concrete or mortar. Mortar is the mixture of cement with finely ground limestone, and ready-mix concrete is the mixture of cement with sand, gravel or other aggregates and water.

Aggregates are naturally occurring sand and gravel or crushed stone such as granite, limestone and sandstone. Aggregates are used to produce ready-mix concrete, roadstone, concrete products, lime, cement and mortar for the construction industry, and are obtained from land based sources such as sand and gravel pits and rock quarries or by dredging marine deposits.

Cement Production Process

We manufacture cement through a closely controlled chemical process, which begins with the mining and crushing of limestone and clay, and, in some instances, other raw materials. The clay and limestone are then pre-homogenized, a process which consists of combining different types of clay and limestone. The mix is typically dried, then fed into a grinder which grinds the various materials in preparation for the kiln. The raw materials are calcined, or processed, at a very high temperature in a kiln, to produce clinker. Clinker is the intermediate product used in the manufacture of cement.

There are two primary processes used to manufacture cement: the dry process and the wet process. The dry process is more fuel efficient. As of December 31, 2008, 51 of our 60 operative production plants used the dry process, four used the wet process and five used both processes. Our operative production plants that use the wet process are located in Croatia, Nicaragua, Poland, the United Kingdom, Germany and Latvia. In the wet process, the raw materials are mixed with water to form slurry, which is fed into a kiln. Fuel costs are greater in the wet process than in the dry process because the water that is added to the raw materials to form slurry must be evaporated during the clinker manufacturing process. In the dry process, the addition of water and the formation of slurry are eliminated, and clinker is formed by calcining the dry raw materials. In the most modern application of this dry process technology, the raw materials are first blended in a homogenizing silo and processed through a pre-heater tower that utilizes exhaust heat generated by the kiln to pre-calcine the raw materials before they are calcined to produce clinker.

Clinker and gypsum are fed in pre-established proportions into a cement grinding mill where they are ground into an extremely fine powder to produce finished cement.

Ready-Mix Concrete Production Process

Ready-mix concrete is a combination of cement, fine and coarse aggregates, and admixtures (which control properties of the concrete including plasticity, pumpability, freeze-thaw resistance, strength and setting time). The concrete hardens due to the chemical reaction when water is added to the mix, filling voids in the mixture and turning it into a solid mass.

User Base

Cement is the primary building material in the industrial and residential construction sectors of most of the markets in which we operate. The lack of available cement substitutes further enhances the marketability of our product. The primary end-users of cement in each region in which we operate vary but usually include, among others, wholesalers, ready-mix concrete producers, industrial customers and contractors in bulk. The end-users of ready-mix concrete generally include homebuilders, commercial and industrial building contractors and road builders. Major end-users of aggregates include ready-mix concrete producers, mortar producers, general building contractors and those engaged in roadbuilding activity, asphalt producers and concrete product producers.

Our Business Strategy

We seek to continue to strengthen our global leadership by growing profitably through our integrated positions along the cement value chain and maximizing our overall performance by employing the following strategies:

Strengthening Our Capital Structure and Regaining Financial Flexibility

In light of the current global economic environment and our substantial amount of indebtedness, we have been focusing, and expect to continue to focus, on strengthening our capital structure and regaining financial flexibility through reducing our debt and renegotiating specified maturities. This ongoing effort includes the following key strategic initiatives:

Global Refinancing. We are in discussions with lenders regarding a global refinancing. Certain of our bank lenders with principal payments falling due between March 24, 2009 and July 31, 2009 have agreed to extend the dates of repayment while discussions of a global refinancing continue. We expect to reach a mutually beneficial agreement with our lenders. See “Item 3 — Key Information — Risk Factors — We have significant amounts of debt coming due in each of the next several years, and we may not be able to secure refinancing on favorable terms or at all” and “Item 5 — Operating and Financial Review and Prospects — Recent Developments — Recent Developments Relating to Our Indebtedness.”

Asset Divestitures Process. We have recently begun a process aimed at divesting certain assets management regards as non-core in order to reduce our debt. In addition to our Canary Islands and Italian operations in 2008, and our agreement to sell our Austrian and Hungary operations mentioned above, we are currently engaged in marketing for the sale of additional assets in our portfolio. In our asset divestiture efforts, we consider whether to divest specific assets or an integrated business unit depending on divestment economic terms and overall market conditions. On June 15, 2009, we sold three quarries (located in Nebraska, Wyoming and Utah) and our 49% joint venture interest in the operations of a quarry located in Granite Canyon, Wyoming, to Martin Marietta Materials, Inc. for U.S.$65 million. On June 15, 2009, we announced our agreement to sell all Australian operations to Holcim for approximately 2.02 billion Australian Dollars (approximately US$1.62 billion considering the exchange rate of 1.25 AUD$ per US Dollar at June 15, 2009). All the proceeds of the sale will be used to reduce debt. The transaction is subject to regulatory approval, due diligence and other closing conditions. See "Item 3 — Key Information — Risk Factors — Our ability to comply with our upcoming debt maturities may depend on our making asset sales, and there is no assurance that we will be able to execute such sales on terms favorable to us or at all" and "Item 5 — Operating and Financial Review and Prospects — Recent Developments — Recent Developments Relating to Our Planned Divestitures of Assets."

Global Cost-Reduction Program. In September 2008, we announced a U.S.$700 million global cost-reduction program intended to reduce our cost structure to a level consistent with the decline in our markets. Our global cost-reduction program encompasses different ongoing undertakings including headcount reductions, capacity closures across the value chain, and a general reduction in global operating expenses.

In connection with the implementation of our cost-reduction program and, as part of our ongoing efforts to eliminate redundancies at all levels and streamline corporate structures to increase our efficiency and lower costs, we have reduced our global headcount by approximately 15%, from 66,612 employees as of December 31, 2007 to 56,791 employees as of December 31, 2008, including a 4% reduction as a result of the nationalization of CEMEX Venezuela.

In addition, 26 cement production lines were temporarily shut down (for a period of at least two months) as of the end of 2008 and the beginning of 2009 in order to rationalize the use of our assets; similar actions were taken in our ready-mix concrete and aggregates businesses. Such rationalizations included, among others, our operations in Mexico, the United States, Spain and the United Kingdom. Furthermore, we have reduced our energy costs by actively managing our energy contracting and sourcing, and by increasing the use of alternative fuels. In 2009 we expect our fuels and electricity costs of cement production to decline 11% in U.S. dollar terms versus 2008.

In April 2009, we identified and announced U.S.$200 million additional cost-savings, representing an extension of earlier cost saving measures originally initiated in 2008. These additional measures are in response to current demand conditions in our markets, and will be fully implemented before the end of 2009.

Reduced Capital Expenditures. In light of the continued deterioration in demand throughout all of our markets, we decided to reduce maintenance and expansion capital expenditures to approximately U.S.$650 million during 2009, from approximately U.S.$2.2 billion during 2008. This reduction in capital expenditures is also being implemented to maximize our free cash flow generation available for debt reduction during the year consistent with our ongoing efforts to strengthen our capital structure and regain financial flexibility. We may decide to limit capital expenditures further if required as a part of the global refinancing.

Equity Issuances. We could consider calling a shareholders' meeting to propose an issuance of new shares as a way to lower our debt and regain financial flexibility and to facilitate overall refinancing and deleveraging initiatives. If alternative sources of financing continue to be limited, we will be dependent on the issuance of equity as a financing source. In the context of ongoing negotiations regarding a global refinancing, our lenders may require us to issue equity and/or equity-linked and/or convertible securities and use the proceeds from any such issuance to repay debt and/or achieve specific debt/equity ratios. See Item 3 — "Key Information — Risk Factors — We will likely have to issue equity as a financing source; our ability to raise equity capital may be limited, could affect our liquidity and could be dilutive to existing shareholders."

Focusing on, and vertically integrating, our core business of cement, ready-mix concrete and aggregates

We plan to continue focusing on our core businesses, the production and sale of cement, ready-mix concrete and aggregates, and the vertical integration of these businesses. We believe that managing our cement, ready-mix concrete and aggregates operations as an integrated business can make them more efficient and more profitable than if they were run separately. We believe that this strategic focus has enabled us to grow our existing businesses and to expand our operations internationally.

Geographically diversifying our operations and allocating capital effectively

Subject to (i) the final terms of the global refinancing plan that may restrict our ability to engage in acquisitions and (ii) economic conditions that may affect our ability to complete acquisitions, upon regaining our financial flexibility we intend to continue adding assets to our existing portfolio.

We intend to continue to geographically diversify our cement, ready-mix concrete and aggregates operations and to vertically integrate in new and existing markets by investing in, acquiring and developing complementary operations along the cement value chain.

We believe that it is important to diversify selectively into markets that have long-term growth potential. By participating in these markets, and by purchasing operations that benefit from our management and turnaround expertise and assets that further integrate into our existing portfolio, in most cases, we have been able to increase our cash flow and return on capital employed.

Implementing platforms to achieve optimal operating standards

By continuing to produce cement at a relatively low cost, we believe that we will continue to generate cash flows sufficient to support our present and future growth. We strive to reduce our overall cement production related costs and corporate overhead through strict cost management policies and through improving efficiencies. We have implemented several worldwide standard platforms as part of this process. These platforms were designed to develop efficiencies and better practices, and we believe they will further reduce our costs, streamline our processes and extract synergies from our global operations. In addition, we have implemented centralized management information systems throughout our operations, including administrative, accounting, purchasing, customer management, budget preparation and control systems, which are expected to assist us in lowering costs.

In the last few years, we have implemented various procedures to improve the environmental impact of our activities as well as our overall product quality.

Through a worldwide import and export strategy, we will continue to optimize capacity utilization and maximize profitability by directing our products from countries experiencing downturns in their respective economies to target export markets where demand may be greater. Our global trading system enables us to coordinate our export activities globally and to take advantage of demand opportunities and price movements worldwide.

Providing the best value proposition to our customers

We believe that by pursuing our objective of integrating our business along the cement value chain we can improve and broaden the value proposition that we provide to our customers. We believe that by offering integrated solutions we can provide our customers more reliable sourcing as well as higher quality services and products.

We continue to focus on developing new competitive advantages that will differentiate us from our competitors. In addition, we are strengthening our commercial and corporate brands in an effort to further enhance the value of our products and our services for our customers. Our relatively lower cost combined with our high quality service has allowed us to make significant inroads in these areas.

We always work to provide superior building solutions in the markets we serve. To this end, we tailor our products and services to suit customers' specific needs — from home construction, improvement, and renovation to agricultural, industrial, and marine/hydraulic applications. Our porous paving concrete, for example, is best suited for sidewalks and roadways because it allows rainwater to filter into the ground, reducing flooding and helping to maintain groundwater levels. In contrast, our significantly less permeable and highly resistant concrete products are well-suited for coastal, marine, and other harsh environments.

We also see abundant opportunities to deepen our customer relationships by focusing on more vertically integrated building solutions rather than separate products. By developing our integrated offerings, we can provide customers with more reliable, higher-quality service and more consistent product quality.

Focusing on attracting, retaining and developing a diverse, experienced and motivated management team

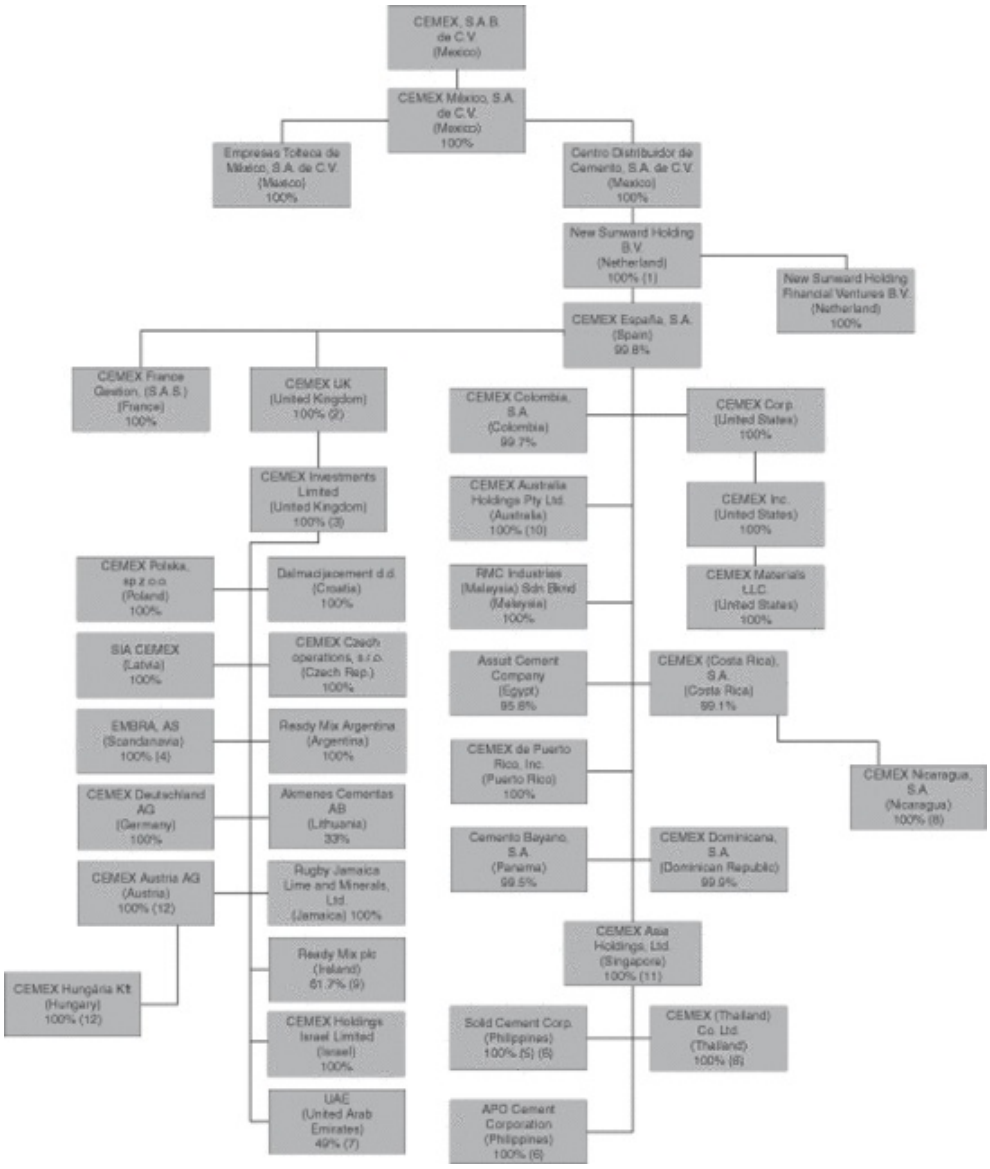
We will continue to focus on recruiting and retaining motivated and knowledgeable professional managers. Our senior management encourages managers to continually review our processes and practices, and to identify innovative management and business approaches to improve our operations. By rotating our managers from one country to another and from one area of our operations to another, we increase their diversity of experience.

We provide our management with ongoing training throughout their careers. In addition, through our stock-based compensation programs, our senior management has a stake in our financial success.

The implementation of our business strategy demands effective dynamics within our organization. Our corporate infrastructure is based on internal collaboration and global management platforms. We will continue to strengthen and develop this infrastructure to effectively support our strategy.

Our Corporate Structure

We are a holding company, and operate our business through subsidiaries that, in turn, hold interests in our cement and ready-mix concrete operating companies, as well as other businesses. The following chart summarizes our corporate structure as of December 31, 2008. The chart also shows, for each company, our approximate direct or indirect percentage equity or economic ownership interest. The chart has been simplified to show only our major holding companies in the principal countries in which we operate and does not include our intermediary holding companies and our operating company subsidiaries.



(1) Centro Distribuidor de Cemento, S.A. de C.V. indirectly holds 100% of New Sunward Holdings B.V. through other intermediate subsidiaries.

(2) Includes CEMEX España's 90% interest and a 10% interest by CEMEX France Gestion (S.A.S.).

(3) Formerly RMC Group Limited.

(4) EMBRA is the holding company for operations in Finland, Norway and Sweden.

(5) Formerly Rizal Cement Co., Inc. Includes CEMEX Asia Holdings' 70% economic interest and 30% interest by CEMEX España.

(6) Represents CEMEX Asia Holdings' indirect economic interest.

(7) Represents our economic interest in three UAE companies, CEMEX Topmix LLC, CEMEX Supermix LLC and CEMEX Falcon LLC. We own a 49% equity interest in each of these companies, and we have obtained the remaining 51% of the economic benefits through agreements with other shareholders.

(8) Includes CEMEX (Costa Rica) S.A.'s 98% interest and CEMEX España S.A.'s 2% indirect interest.

(9) Registered business name is CEMEX Ireland.

(10) CEMEX Australia Holdings Pty. Ltd. is the owner of our Australian operations and has an indirect interest in CEMEX Materials LLC. On June 15, 2009, we announced our agreement to sell all our Australian operations to Holcim for approximately 2.02 billion Australian Dollars (approximately US$1.62 billion considering the exchange rate of 1.25 AUD$ per US Dollar at June 15, 2009). See "Item 5 — Operating and Financial Review and Prospects — Recent Developments — Recent Developments Relating to Our Planned Divestitures of Assets."

(11) CEMEX Asia B.V. holds 100% of the beneficial interest.

(12) On July 31, 2008, we agreed to sell our operations in Austria (consisting of 26 aggregates and 41 ready-mix concrete plants) and Hungary (consisting of 6 aggregates, 29 ready-mix concrete and 4 paving stone plants) to Strabag SE, one of Europe's leading construction and building materials groups, for €310 million (approximately U.S.$433 million). On February 11, 2009, the HCC approved the sale subject to the condition that the purchaser sell the ready-mix concrete plant operating in Salgótarján to a third party within the next year. The transaction is still subject to regulatory approval by the Austrian competition authorities. The purchaser has appealed several conditions imposed by the Austrian competition authorities, which we expect will delay the completion of the sale by at least two months.

North America

For the year ended December 31, 2008, our business in North America, which includes our operations in Mexico and the United States, represented approximately 38% of our net sales. As of December 31, 2008, our business in North America represented approximately 49% of our total installed cement capacity and approximately 56% of our total assets. As a result of our acquisition of Rinker, our North American operations have increased significantly.

Our Mexican Operations

Overview. Our Mexican operations represented approximately 17% of our net sales in Peso terms, before eliminations resulting from consolidation, and approximately 11% of our total assets for the year ended December 31, 2008.

As of December 31, 2008, we owned 100% of the outstanding capital stock of CEMEX México. CEMEX México is a direct subsidiary of CEMEX and is both a holding company for some of our operating companies in Mexico and an operating company involved in the manufacturing and marketing of cement, plaster, gypsum, groundstone and other construction materials and cement by-products in Mexico. CEMEX México, indirectly, is also the holding company for our international operations. CEMEX México, together with its subsidiaries, accounts for a substantial part of the revenues and operating income of our Mexican operations.

In March 2006, we announced a plan to construct a new kiln at our Yaqui cement plant in Sonora, Mexico in order to increase our cement production capacity to support strong regional demand due to the continued growth of the housing market in the Northwest region. The production capacity of the Yaqui cement plant before the construction of the new kiln was approximately 1.6 million tons of cement per year. The construction of the new kiln, which increased our total production capacity in the Yaqui cement plant to approximately 3.1 million tons of cement per year, was completed in the third quarter of 2008.

In September 2006, we announced a plan to construct a new kiln at our Tepeaca cement plant in Puebla, Mexico. The current production capacity of the Tepeaca cement plant is approximately 3.3 million tons of cement per year. The construction of the new kiln, which is designed to increase our total production capacity in the Tepeaca cement plant to approximately 7.4 million tons of cement per year, is expected to be completed in 2013. We expect our total capital expenditures in the construction of this new kiln to be approximately U.S.$570 million, including approximately U.S.$32 million, U.S.$94 million and U.S.$303 million in capital expenditures made during 2006, 2007 and 2008, respectively. We expect to spend approximately U.S.$35 million in capital expenditures for Tepeaca during 2009. We expect that this investment will be fully funded with free cash flow generated during the construction period.

In 2001, we launched the Construrama program, a registered brand name for construction material stores. Through the Construrama program, we offer to an exclusive group of our Mexican distributors the opportunity to sell a variety of products under the Construrama brand name, a concept that includes the standardization of stores, image, marketing, products and services. As of December 31, 2008, more than 840 independent concessionaries with more than 2,400 stores were integrated into the Construrama program, with nationwide coverage.

The Mexican Cement Industry. According to the Instituto Nacional de Estadística, Geografía e Informática, Mexico's Construction GDP decreased 0.6% in 2008. Total construction investment, on the other hand, fell by 0.4%, primarily driven by the commercial and industrial segments, which we estimate fell 16.5% during the full year, while the retail (self-construction) market decreased 4.7%, formal housing increased 5.3% and infrastructure increased 15.7%.

Cement in Mexico is sold principally through distributors, with the remaining balance sold through ready-mix concrete producers, manufacturers of pre-cast concrete products and construction contractors. Cement sold through distributors is mixed with aggregates and water by the end user at the construction site to form concrete. Ready-mix concrete producers mix the ingredients in plants and deliver it to local construction sites in mixer trucks, which pour the concrete. Unlike more developed economies, where purchases of cement are concentrated in the commercial and industrial sectors, retail sales of cement through distributors in 2008 accounted for more than 60% of Mexico's demand. Individuals who purchase bags of cement for self-construction and other basic construction needs are a significant component of the retail sector. We estimate that about 30% of total demand in Mexico comes from individuals who address their own construction needs. We believe that this large retail sales base is a factor that significantly contributes to the overall performance of the Mexican cement market.

The retail nature of the Mexican cement market also enables us to foster brand loyalty, which distinguishes us from other worldwide producers selling primarily in bulk. We own the registered trademarks for our brands in Mexico, such as "Tolteca," "Monterrey," "Maya," "Anahuac," "Campana," "Gallo," and "Centenario." We believe that these brand names are important in Mexico since cement is principally sold in bags to retail customers who may develop brand loyalty based on differences in quality and service. In addition, we own the registered trademark for the "Construrama" brand name for construction material stores.

Competition. In the early 1970s, the Mexican cement industry was regionally fragmented. However, over the last 30 years, cement producers in Mexico have increased their production capacity and the Mexican cement industry has consolidated into a national market, thus becoming increasingly competitive. The major cement producers in Mexico are CEMEX; Holcim Apasco, an affiliate of Holcim; Sociedad Cooperativa Cruz Azul, a Mexican operator; Cementos Moctezuma, an associate of Ciments Molins; Grupo Cementos Chihuahua, a Mexican operator in which we own a 49% interest; and Lafarge.

Potential entrants into the Mexican cement market face various impediments to entry, including:

- the time-consuming and expensive process of establishing a retail distribution network and developing the brand identification necessary to succeed in the retail market, which represents the bulk of the domestic market;
- the lack of port infrastructure and the high inland transportation costs resulting from the low value-to-weight ratio of cement;
- the distance from ports to major consumption centers and the presence of significant natural barriers, such as mountain ranges, which border Mexico's east and west coasts;
- the extensive capital expenditure requirements; and
- the length of time required for construction of new plants, which is approximately two years.

Our Mexican Operating Network

During 2008, we operated 15 plants and 88 distribution centers (including eight marine terminals) located throughout Mexico. We operate modern plants on the Gulf of Mexico and Pacific coasts, allowing us to take advantage of low-land transportation costs to export to U.S., Caribbean, Central and South American markets.

Products and Distribution Channels

Cement. Our cement operations represented approximately 57% of our Mexican operations' net sales before eliminations resulting from consolidation in 2008. Our domestic cement sales volume represented approximately 93% of our total Mexican cement sales volume in 2008. As a result of the retail nature of the Mexican market, our Mexican operations are not dependent on a limited number of large customers. The five most important distributors in the aggregate accounted for approximately 7.3% of total cement sales by volume for such year.

Ready-Mix Concrete. Our ready-mix operations represented approximately 26% of our Mexican operations' net sales before eliminations resulting from consolidation in 2008. Our ready-mix operations in Mexico purchase all their cement requirements from our Mexican cement operations. Ready-mix concrete is sold through our own internal sales force and facilities network.

Aggregates. Our aggregates operations represented approximately 3% of our Mexican operations' net sales before eliminations resulting from consolidation in 2008.

Exports. Our Mexican operations export a portion of their cement production, mainly in the form of cement and to lesser extent in the form of clinker. Exports of cement and clinker by our Mexican operations represented approximately 7% of our total Mexican cement sales volume in 2008. In 2008, approximately 56% of our cement and clinker exports from Mexico were to the United States, 37% to Central America and the Caribbean and 7% to South America.

Our Mexican operations' cement and clinker exports to the U.S. are marketed through wholly-owned subsidiaries of CEMEX Corp., the holding company of CEMEX, Inc. All transactions between CEMEX and the subsidiaries of CEMEX Corp., which act as our U.S. importers, are conducted on an arm's-length basis.

Our exports of Mexican gray cement from Mexico to the United States were subject to an anti-dumping order that was imposed by the Commerce Department on August 30, 1990. In March 2006, the Mexican and U.S. governments entered into an agreement to eliminate U.S. anti-dumping duties on Mexican cement imports following a three-year transition period beginning in 2006. In 2006, 2007 and 2008, Mexican cement imports into the U.S. were subject to volume limitations of 3 million tons, 3.1 million and 3.0 million tons per year, respectively. Quota allocations to Mexican companies that import cement into the U.S. are made on a regional basis. The transitional

anti-dumping duty during the three-year transition period was lowered to U.S.$3.00 per ton, effective as of April 3, 2006, from the previous amount of approximately U.S.$26.00 per ton. Restrictions imposed by the United States on Mexican cement imports were eliminated beginning in 2009. For a more detailed description of the terms of the agreement between the Mexican and U.S. governments, please see "Regulatory Matters and Legal Proceedings — Anti-Dumping."

Production Costs. Our Mexican operations' cement plants primarily utilize petcoke, but several are designed to switch to fuel oil and natural gas with minimum downtime. We have entered into two 20-year contracts with Petróleos Mexicanos, or PEMEX, pursuant to which PEMEX has agreed to supply us with a total of 1.75 million tons of petcoke per year through 2022 and 2023. Petcoke is petroleum coke, a solid or fixed carbon substance that remains after the distillation of hydrocarbons in petroleum and that may be used as fuel in the production of cement. The PEMEX petcoke contracts have reduced the volatility of our fuel costs. In addition, since 1992, our Mexican operations have begun to use alternative fuels, to further reduce the consumption of residual fuel oil and natural gas. These alternative fuels represented approximately 5.4% of the total fuel consumption for our Mexican operations in 2008, and we expect to increase this percentage to about 9% by the end of 2009.

In 1999, we reached an agreement with a consortium for the financing, construction and operation of "Termoeléctrica del Golfo," a 230 megawatt energy plant in Tamuin, San Luis Potosí, Mexico. We entered into this agreement in order to reduce the volatility of our energy costs. The total cost of the project was approximately U.S.$360 million. The power plant commenced commercial operations in April 2004. In February 2007, the original members of the consortium sold their participations in the project to a subsidiary of The AES Corporation. As part of the original agreement, we committed to supply the energy plant with all fuel necessary for its operations, a commitment that has been hedged through a 20-year agreement we entered into with PEMEX. These agreements were reestablished under the same conditions in 2007 with the new operator and the term was extended until 2027. The agreement with PEMEX, however, was not modified and terminates in 2024. Consequently, for the last 3 years of the agreement, we intend to purchase the required fuel in the market. For the years ended December 31, 2008, 2007 and 2006, the power plant has supplied 60.4%, 59.7% and 57.1%, respectively, of our overall Mexican cement plants electricity needs during such years.

In April 2007, we entered into an agreement to purchase the energy generated by a wind-driven power plant located in Oaxaca, Mexico, which construction is currently underway by Spanish construction company Acciona S.A. The power plant is expected to generate up to 250 megawatts of electricity per year and supply approximately 25% of our current power needs in Mexico. The first phase was completed in the first quarter of 2009 and the last phase is expected to be operational in the last quarter of 2009. Currently, 25 turbines are installed out of a total of 167 wind turbines. The power plant, which will be financed by Acciona S.A., is estimated to cost approximately U.S.$550 million.

We have, from time to time, purchased hedges from third parties to reduce the effect of volatility in energy prices in Mexico. See "Item 5 — Operating and Financial Review and Prospects — Liquidity and Capital Resources."

Description of Properties, Plants and Equipment. As of December 31, 2008, there were 15 wholly-owned cement plants located throughout Mexico, with a total theoretical installed capacity of 29.2 million tons per year. We have exclusive access to limestone quarries and clay reserves near each of our plant sites in Mexico. We estimate that these limestone and clay reserves have an average remaining life of more than 60 years, assuming 2008 production levels. As of December 31, 2008, all our production plants in Mexico utilized the dry process.

As of December 31, 2008, we had a network of 80 land distribution centers in Mexico, which are supplied through a fleet of our own trucks and rail cars, as well as leased trucks and rail facilities and eight marine terminals. In addition, we had 328 ready-mix concrete plants throughout 79 cities in Mexico, more than 2,700 ready-mix concrete delivery trucks and 16 aggregates quarries.

As part of our Global Cost-Reduction Program we have made temporary capacity adjustments and rationalizations in four of our cement plants in Mexico. In addition, we expect to close approximately 6% of our production capacity in our ready-mix plants and around 7% of our land distribution centers in Mexico.

Capital Expenditures. We made capital expenditures of approximately U.S.$353 million in 2006, U.S.$398 million in 2007 and U.S.$497 million in 2008, in our Mexican operations. We currently expect to make capital expenditures of approximately U.S.$99 million in our Mexican operations during 2009, including those related to the expansion of the Tepeaca cement plant described above.

Our U.S. Operations

Overview. Our U.S. operations represented approximately 21% of our net sales in Peso terms, before eliminations resulting from consolidation, and approximately 45% of our total assets, for the year ended December 31, 2008. As of December 31, 2008, we held 100% of CEMEX, Inc., our operating subsidiary in the United States.

As of December 31, 2008, we had a cement manufacturing capacity of approximately 17.5 million tons per year in our U.S. operations, including nearly 0.7 million tons in proportional interests through minority holdings. As of December 31, 2008, we operated a geographically diverse base of 14 cement plants located in Alabama, California, Colorado, Florida, Georgia, Kentucky, Ohio, Pennsylvania, Tennessee and Texas. As of that date, we also had 54 rail or water served active cement distribution terminals in the United States. As of December 31, 2008, we had 348 ready-mix concrete plants located in the Carolinas, Florida, Georgia, Texas, New Mexico, Nevada, Arizona, California, Oregon and Washington and aggregates facilities in North Carolina, South Carolina, Arizona, California, Florida, Georgia, Kentucky, Nebraska, New Mexico, Nevada, Oregon, Texas, Utah, Washington and Wyoming, not including the assets we contributed to Ready Mix USA, LLC, as described below.

As described above, on July 1, 2005, we and Ready Mix USA established two jointly-owned limited liability companies, CEMEX Southeast, LLC, a cement company, and Ready Mix USA, LLC, a ready-mix concrete company, to serve the construction materials market in the southeast region of the United States. We own a 50.01% interest, and Ready Mix USA owns a 49.99% interest, in the profits and losses and voting rights of CEMEX Southeast, LLC, while Ready Mix USA owns a 50.01% interest, and we own a 49.99% interest, in the profits and losses and voting rights of Ready Mix USA, LLC. CEMEX Southeast, LLC is managed by us, and Ready Mix USA, LLC is managed by Ready Mix USA.

Starting on June 30, 2008, Ready Mix USA has had the right to require us to acquire Ready Mix USA's interest in the two companies at a price equal to the greater of a) eight times the companies' operating cash flow for the trailing twelve months, b) eight times the average of the companies' operating cash flow for the previous three years, or c) the net book value of the combined companies' assets. This option will expire on July 1, 2030.

Under the Ready Mix USA, LLC joint venture, we are required to contribute to the Ready Mix USA joint venture any ready-mix concrete and concrete block assets we acquire inside the joint venture region, while any aggregates assets acquired inside the region may be added to the Ready Mix USA joint venture at the option of the non-acquiring member. Building materials, pipe, transport and storm water treatment assets are not subject to the contribution clause under the Ready Mix USA joint venture. Upon contribution of the assets, the non-acquiring member may, subject to certain conditions, elect among the following financing methods: (i) to make a capital contribution in cash to the joint venture for an amount equivalent to the determined value of the assets, (ii) to have the joint venture borrow from a third party the funds necessary to purchase the assets from us, (iii) to have the joint venture issue debt to the contributing member in an amount equal to such value or (iv) to accept dilution of its interest in the joint venture. The value of the contributed assets is to be determined by the Ready Mix USA joint venture board within 30 days of the asset acquisition, and is based on a formula based on the last fiscal year earnings of the assets. The non-acquiring member has 30 days to elect the financing method for the contributed assets following board approval of the valuation, and if no option is elected within 30 days the right to select the option is transferred to the contributing member. Following the financing election, the contribution or sale of the assets to the joint venture must be completed within 180 days. If not completed within that period, the non-acquiring member has the right for 365 days to require the ready-mix concrete and concrete block assets to be sold to a third party. Aggregates assets may be retained by the acquiring member if the non-acquiring member elects not to have the aggregates assets contributed to the joint venture.

On January 11, 2008, in connection with the assets acquired from Rinker (see note 8A to our consolidated financial statements included elsewhere in this annual report), and as part of our agreements with Ready Mix USA, CEMEX contributed and sold to Ready Mix USA, LLC, certain assets located in Georgia, Tennessee and Virginia, which had a fair value of approximately U.S.$437 million. We received U.S.$120 million in cash for the assets sold

to Ready Mix USA, LLC and the remaining assets were treated as a U.S.$260 million contribution by us to Ready Mix USA, LLC. As part of the same transaction, Ready Mix USA contributed U.S.$125 million in cash to Ready Mix USA, LLC, which in turn, received bank loans of U.S.$135 million. Ready Mix USA, LLC made a special distribution in cash to us of U.S.$135 million. Ready Mix USA manages all the assets acquired. Following this transaction, Ready Mix USA, LLC continues to be owned 50.01% by Ready Mix USA and 49.99% by CEMEX. The assets contributed and sold by CEMEX include: 11 concrete plants, 12 limestone quarries, four concrete maintenance facilities, two aggregate distribution facilities and two administrative offices in Tennessee; three granite quarries and one aggregates distribution facility in Georgia; and one limestone quarry and one concrete plant in Virginia. All these assets were acquired by us through our acquisition of Rinker.

On September 18, 2007, we announced our intention to begin the permitting process for the construction of a 1.7 million ton cement manufacturing facility near Seligman, Arizona. The state-of-the-art facility will manufacture cement to serve the future growth of Arizona, including the Phoenix metropolitan area. As a result of current market conditions and consistent with the reduction of our expansion capital expenditure program, we have delayed the completion of this project. As of December 31, 2008, we had spent a total of approximately U.S.$14 million on this project. We do not plan to incur capital expenditures in the construction of the Seligman Crossing Plant during 2009.

In February 2006, we announced a plan to construct a second kiln at our Balcones cement plant in New Braunfels, Texas in order to increase our cement production capacity to support strong demand amidst a shortfall in regional supplies of cement. The production capacity of the Balcones cement plant was approximately 1.1 million tons per year. The construction of the new kiln, which was designed to increase our total production capacity in the Balcones cement plant to approximately 2.2 million tons per year, was completed in the third quarter of 2008, although minor expenditures are scheduled to be made during 2009 and 2010. We expect to spend approximately U.S.$388 million in the construction of this new kiln, including U.S.$27 million in 2006, U.S.$187 million in 2007 and U.S.$147 million in 2008, and an expected U.S.$11 million during 2009.

In October 2005, Rinker announced that it had commenced detailed plant engineering for the construction of a second kiln at the cement plant in Brooksville, Florida in order to increase the cement production capacity by 50%. The production capacity of the Brooksville South plant was approximately 0.7 million tons per year. The construction of the new kiln was completed in the third quarter of 2008, although minor expenditures are scheduled to be made during 2009. We expect to spend approximately U.S.$246 million in the construction of this new kiln, including U.S.$2 million in 2005, U.S.$58 million in 2006, U.S.$121 million in 2007 and U.S.$58 million in 2008, and an expected U.S.$6 million during 2009.

With the acquisition of Mineral Resource Technologies, Inc. in August 2003, we believe that we achieved a competitive position in the growing fly ash market. Fly ash is a mineral residue resulting from the combustion of powdered coal in electric generating plants. Fly ash has the properties of cement and may be used in the production of more durable concrete. Mineral Resource Technologies, Inc. is one of the four largest fly ash companies in the United States, providing fly ash to customers in 25 states. We also own regional pipe and precast businesses, along with concrete block and paver plants in the Carolinas and Florida.

The Cement Industry in the United States. Demand for cement is derived from the demand for ready-mix concrete and concrete products which, in turn, is dependent on the demand for construction. The construction industry is composed of three major sectors, namely, the residential sector, the industrial-and-commercial sector, and the public sector. The public sector is the most cement intensive sector, particularly for infrastructure projects such as streets, highways and bridges. While construction spending follows the overall business cycle, the public sector has been the major driver of long-term cement demand growth and has been more stable during recessions than the residential and industrial and commercial sectors.

The construction industry is experiencing the worst downturn in over 70 years as the fallout from the collapse of the housing sector caused massive losses in the financial sector, which has resulted in extremely tight credit conditions and a deep U.S. recession. Under these conditions, cement demand declined 9.9% in 2007 and 15.8% in 2008. According to the Portland Cement Association, cement demand is projected to decline 18% in 2009 and then enter a recovery period as unprecedented actions by the Federal Reserve and Treasury to stabilize the financial sector and the $787 billion economic stimulus package take hold. To a large extent, the 30 million ton decline in cement demand from 2006 to 2008 has been absorbed by a decline in imports of 25 million tons.

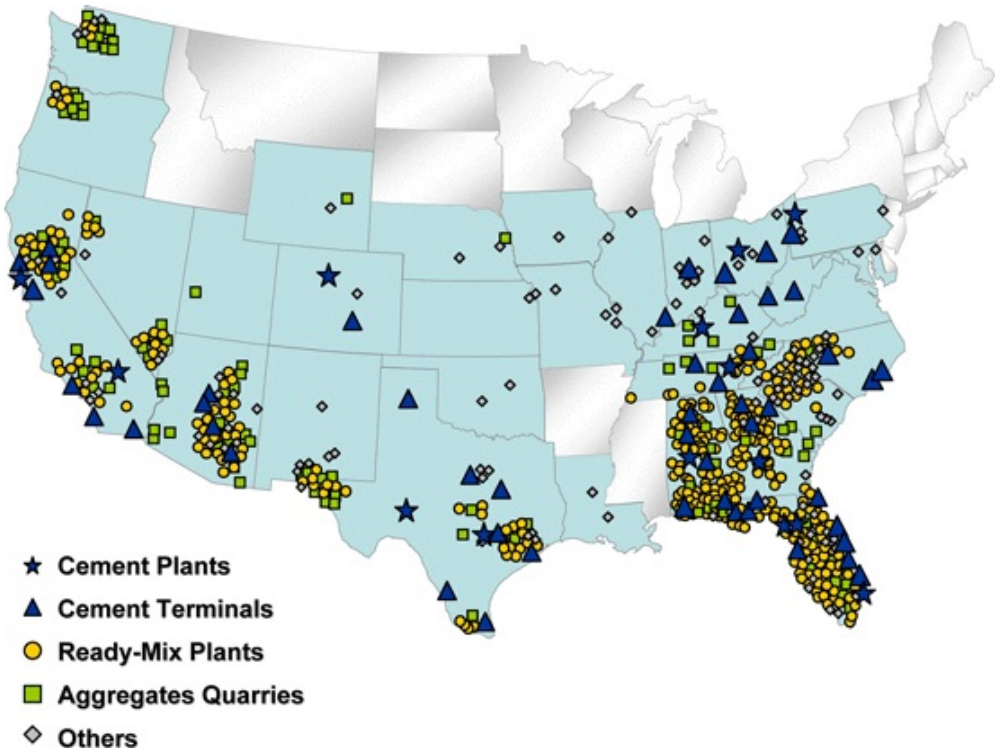
According to the Portland Cement Association, the industry's capacity utilization was 91.4% in 2007, and we estimate that it was approximately 84% in 2008. The industry is responding to the weak demand conditions by closing plants, reducing production and delaying capacity expansions. To date, there have been announcements to close approximately 10 million tons of capacity for 2009. We believe that the unprecedented drop in the housing industry since early 2006 is not likely to be repeated in the future. Consequently, we believe that cement demand in the future will show more stability in recessions than is currently the case because of the large share of demand accounted for by the public sector, which has a long history of being more stable during recessions.

Competition. As a result of the lack of product differentiation and the commodity nature of cement, the cement industry in the U.S. is highly competitive. We compete with national and regional cement producers in the U.S. Our principal competitors in the United States are Holcim, Lafarge, Buzzi-Unicem, Heidelberg Cement and Ash Grove Cement.

The independent U.S. ready-mix concrete industry is highly fragmented, and few producers other than vertically integrated producers have annual sales in excess of U.S.$6 million or have a fleet of more than 20 concrete mixers. Given that the concrete industry has historically consumed approximately 75% of all cement produced annually in the U.S., many cement companies choose to be vertically integrated.

Aggregates are widely used throughout the U.S. for all types of construction because they are the most basic materials for building activity. The U.S. aggregates industry is highly fragmented and geographically dispersed. According to the U.S. Geological Survey, during 2008 an estimated 4,100 companies operated approximately 6,700 sand and gravel sites and 1,450 companies operated 3,620 crushed stone quarries and 86 underground mines in 50 states in the U.S.

Our United States Cement Operating Network. The map below reflects the location of our operating assets, including our cement plants and cement terminals in the United States (including the assets held through the Ready Mix USA LLC joint venture) as of December 31, 2008.



Products and Distribution Channels

Cement. Our cement operations represented approximately 27% of our U.S. operations' net sales before eliminations resulting from consolidation in 2008. We deliver a substantial portion of cement by rail. Occasionally, these rail shipments go directly to customers. Otherwise, shipments go to distribution terminals where customers pick up the product by truck or we deliver the product by truck. The majority of our cement sales are made directly to users of gray Portland and masonry cements, generally within a radius of approximately 200 miles of each plant.

Ready-Mix Concrete. Our ready-mix concrete operations represented approximately 30% of our U.S. operations' net sales before eliminations resulting from consolidation in 2008. Our ready-mix concrete operations in the U.S. purchase most of their cement requirements from our U.S. cement operations and roughly half of their aggregates requirements from our U.S. aggregates operations. In addition, our 49.99%-owned Ready Mix USA, LLC joint venture purchases most of its cement requirements from our U.S. cement operations. Our ready-mix concrete products are mainly sold to residential, commercial and public contractors and to building companies.

Aggregates. Our aggregates operations represented approximately 17% of our U.S. operations' net sales before eliminations resulting from consolidation in 2008. At 2008 production levels, and based on 102 active locations, it is anticipated that our construction aggregates reserves in the U.S. will last for 29 years or more. Our aggregates are consumed mainly by our internal operations and by our trade customers in the ready-mix, concrete products and asphalt industries. Ready Mix USA, LLC purchases most of its aggregates requirements from third parties.

Production Costs. The largest cost components of our plants are electricity and fuel, which accounted for approximately 39% of our U.S. operations' total production costs in 2008. We are currently implementing a program to gradually replace coal with more economic fuels such as petcoke and tires, which has resulted in reduced energy costs. By retrofitting our cement plants to handle alternative energy fuels, we have gained more flexibility in supplying our energy needs and have become less vulnerable to potential price spikes. In 2008, the use of alternative

fuels offset the effect on our fuel costs of a significant increase in coal prices. Power costs in 2008 represented approximately 17% of our U.S. cement operations' cash manufacturing cost, which represents production cost before depreciation. We have improved the efficiency of our U.S. operations' electricity usage, concentrating our manufacturing activities in off-peak hours and negotiating lower rates with electricity suppliers.

Description of Properties, Plants and Equipment. As of December 31, 2008, we operated 14 cement manufacturing plants in the U.S., with a total installed capacity of 17.5 million tons per year, including nearly 0.7 million tons in proportional interests through minority holdings. As of that date, we operated a distribution network of 54 cement terminals, 11 of which are deep-water terminals. All our cement production facilities in 2008 were wholly-owned except for the Louisville, Kentucky plant, which is owned by Kosmos Cement Company, a joint venture in which we own a 75% interest and a subsidiary of Dyckerhoff AG owns a 25% interest, and the Demopolis, Alabama and Clinchfield, Georgia plants, which are owned by CEMEX Southeast, LLC, an entity in which we own a 50.01% interest and Ready Mix USA owns a 49.99% interest. As of December 31, 2008, we had 348 wholly-owned ready-mix concrete plants and 102 aggregates quarries.

As of December 31, 2008, we also had interests in 188 ready-mix concrete plants and 24 aggregates quarries, which are owned by Ready Mix USA, LLC, an entity in which Ready Mix USA owns a 50.01% interest and we own a 49.99% interest.

As of December 31, 2008, we distributed fly ash through 16 terminals and 18 third-party-owned utility plants, which operate both as sources of fly ash and distribution terminals. As of that date, we also owned 196 concrete block, paver, pipe, precast, asphalt and gypsum products distribution facilities, and had interests in 19 concrete block, paver, pipe and precast facilities, which are owned by Ready Mix USA, LLC.

As part of our Global Cost-Reduction Program we have made temporary capacity adjustments and rationalizations in three cement plants in our U.S. operations. Our Davenport plant, located in northern California, will shut down cement production. Our Brooksville plant, located near our recently expanded capacity Brooksville South plant, has already shut down cement production. In addition, we have closed around 30% of our ready-mix concrete plants, around 15% of our concrete block plants and around 31% of our aggregates quarries in the U.S.

Capital Expenditures. We made capital expenditures of approximately U.S.$344 million in 2006, U.S.$496 million in 2007 and U.S.$391 million in 2008, in our U.S. operations. We currently expect to make capital expenditures of approximately U.S.$64 million in our U.S. operations during 2009. We do not expect to be required to contribute any funds with respect to the assets of the companies jointly-owned with Ready Mix USA as capital expenditures during 2009.

Europe

For the year ended December 31, 2008, our business in Europe, which includes our operations in Spain, the United Kingdom and our Rest of Europe segment, as described below, represented approximately 35% of our net sales before eliminations resulting from consolidation. As of December 31, 2008, our business in Europe represented approximately 27% of our total installed capacity and approximately 26% of our total assets.

Our Spanish Operations

Overview. Our Spanish operations represented approximately 7% of our net sales in Peso terms, before eliminations resulting from consolidation, and approximately 10% of our total assets, for the year ended December 31, 2008.

As of December 31, 2008, we held 99.8% of CEMEX España, S.A., or CEMEX España, our operating subsidiary in Spain. Our cement activities in Spain are conducted by CEMEX España. Our ready-mix concrete activities in Spain are conducted by Hormicemex, S.A., a subsidiary of CEMEX España, and our aggregates activities in Spain are conducted by Aricemex S.A., a subsidiary of CEMEX España. CEMEX España is also a holding company for most of our international operations.

In March 2006, we announced a plan to invest approximately €47 million in the construction of a new cement mill and dry mortar production plant in the Port of Cartagena in Murcia, Spain, including approximately €11 million in 2006, €19 million in 2007 and €3 million in 2008. The first phase, which includes the cement mill with production capacity of nearly one million tons of cement per year, was completed in the last quarter of 2007. Execution of the second phase, which includes the new dry mortar plant with a production capacity of 200,000 tons of dry mortar per year, is at an initial stage, with no material investments expected during 2009.

During the course of 2007 we increased our installed capacity for white cement at our Buñol plant, located in the Valencia region, through the installation of a new production line which became operational in the third quarter of 2007.

In February 2007, we announced that Cementos Andorra, a joint venture between us and the Burgos family, intends to build a new cement production facility in Teruel, Spain. The new cement plant is expected to have an annual capacity in excess of 650,000 tons and will be completed depending on market conditions improvement in Spain. Our investment in the construction of the plant is expected to be approximately €138 million, including approximately €28 million in 2007, €58 million in 2008 and an expected €30 million during 2009. We hold a 99.34% interest in Cementos Andorra, and the Burgos family holds a 0.66% interest.

On December 26, 2008, we sold our Canary Islands operations (consisting of cement and ready-mix concrete assets in Tenerife and our 50% equity interest in two joint-ventures, Cementos Especiales de las Islas, S.A. (CEISA) and Inprocoi, S.L.) to several Spanish subsidiaries of Cimpor Cimentos de Portugal SGPS, S.A. for €162 million (approximately U.S.$227 million).

The Spanish Cement Industry. According to our latest estimates, in 2008, investment in construction sector fell by about 4.8% when compared to 2007, primarily as a result of a severe correction in the housing sector, which fell by about 10.9%. According to the latest estimates from the Asociación de Fabricantes de Cemento de España, or OFICEMEN, the Spanish cement trade organization, cement consumption in Spain in 2008 decreased 23.8% compared to 2007.

During the past several years, the level of cement imports into Spain has been influenced by the strength of domestic demand and fluctuations in the value of the Euro against other currencies. According to OFICEMEN, cement imports increased 9.5% in 2006 and decreased 10.5% in 2007 and 40% in 2008. Clinker imports were significant, with increases of 19.7% in 2006, 26.8% in 2007, but experienced a sharp decline in 2008 of 46%. Imports primarily have had an impact on coastal zones, since transportation costs make it less profitable to sell imported cement in inland markets.

Spain has traditionally been one of the leading exporters of cement in the world exporting up to 13 million tons per year. In recent years, Spanish cement and clinker export volumes have fluctuated, reflecting the rapid changes of demand in the Mediterranean basin as well as the strength of the Euro and the changes in the domestic market. According to OFICEMEN, these export volumes decreased 22% in 2006, decreased 3% in 2007 and increased 102% in 2008.

Competition. According to OFICEMEN, as of December 31, 2008, approximately 60% of installed capacity for production of clinker and cement in Spain was owned by five multinational groups, including CEMEX.

Competition in the ready-mix concrete industry is particularly intense in large urban areas. Our subsidiary, Hormicemex, has achieved a relevant market presence in areas such as the Baleares islands, Levante (includes the Castellón, Valencia, Alicante and Murcia regions) and Aragón (includes the Huesca, Zaragoza and Teruel regions). In other areas, such as central Spain and Cataluña (includes the Barcelona, Lleida and Tarragona regions), our market share is smaller due to greater competition in the relatively larger urban areas. The overall high degree of competition in the Spanish ready-mix concrete industry has in the past led to weak pricing. The distribution of ready-mix concrete remains a key component of CEMEX España's business strategy.

Our Spanish Operating Network

Products and Distribution Channels

Cement. Our cement operations represented approximately 54% of our Spanish operations' net sales before eliminations resulting from consolidation in 2008. CEMEX España offers various types of cement, targeting specific products to specific markets and users. In 2008, approximately 14% of CEMEX España's domestic sales volume consisted of bagged cement through distributors, and the remainder of CEMEX España's domestic sales volume consisted of bulk cement, primarily to ready-mix concrete operators, which include CEMEX España's own subsidiaries, as well as industrial customers that use cement in their production processes and construction companies.

Ready-Mix Concrete. Our ready-mix concrete operations represented approximately 24% of our Spanish operations' net sales before eliminations resulting from consolidation in 2008. Our ready-mix concrete operations in Spain in 2008 purchased over 85% of their cement requirements from our Spanish cement operations, and approximately 51% of their aggregates requirements from our Spanish aggregates operations.

Aggregates. Our aggregates operations represented approximately 6% of our Spanish operations' net sales before eliminations resulting from consolidation in 2008.

Exports. Exports of cement by our Spanish operations represented approximately 2% of our Spanish operations' net sales before eliminations resulting from consolidation in 2008. Export prices are usually lower than domestic market prices, and costs are usually higher for export sales. Of our total export sales from Spain in 2008, 10% consisted of white cement, 22% of gray cement and 68% of grey clinker. In 2008, 72% of our exports from Spain were to Africa, 27% to Europe and 1% to other countries.

Production Costs. We have improved the profitability of our Spanish operations by introducing technological improvements that have significantly reduced our energy costs, including the use of alternative fuels, in accordance with our cost reduction efforts. In 2008, we burned meal flour, organic waste, tires and plastics as fuel, achieving, in 2008, an 11% substitution rate for petcoke in our gray clinker kilns for the year. During 2009, we expect to increase the quantity of these alternative fuels and to reach a substitution level of over 25%.

Description of Properties, Plants and Equipment. As of December 31, 2008, our Spanish operations included eight cement plants located in Spain, with an installed cement capacity of 11.4 million tons, including 1.2 million tons of white cement. As of that date, we also owned two cement mills, 25 distribution centers, including 8 land and 17 marine terminals, 104 ready-mix concrete plants, 25 aggregates quarries and 12 mortar plants. As of December 31, 2008, we owned 9 limestone quarries located in close proximity to our cement plants, which have useful lives ranging from 10 to 30 years, assuming 2008 production levels. Additionally, we have rights to expand these reserves to around 50 years of limestone reserves, assuming 2008 production levels.

As part of our Global Cost-Reduction Program we have made temporary capacity adjustments and rationalizations in several cement plants in our Spanish operations. During 2009, six of our plants will partially stop cement production for more than two months. In addition to these partial stoppages, the San Vicente plant, located in Alicante, and the Vilanova plant, located in Tarragona, will stop cement production activities during this year. Also, we have temporarily closed our grinding mill facilities in Muel and Escombreras, and approximately 16% of our ready-mix concrete plants and 8% of our aggregates quarries in Spain.

Capital Expenditures. We made capital expenditures of approximately U.S.$162 million in 2006, U.S.$213 million in 2007 and U.S.$177 million in 2008 in our Spanish operations. We currently expect to make capital expenditures of approximately U.S.$68 million in our Spanish operations during 2009, including those related to the construction of the new cement production facility in Teruel, described above.

Our U.K. Operations

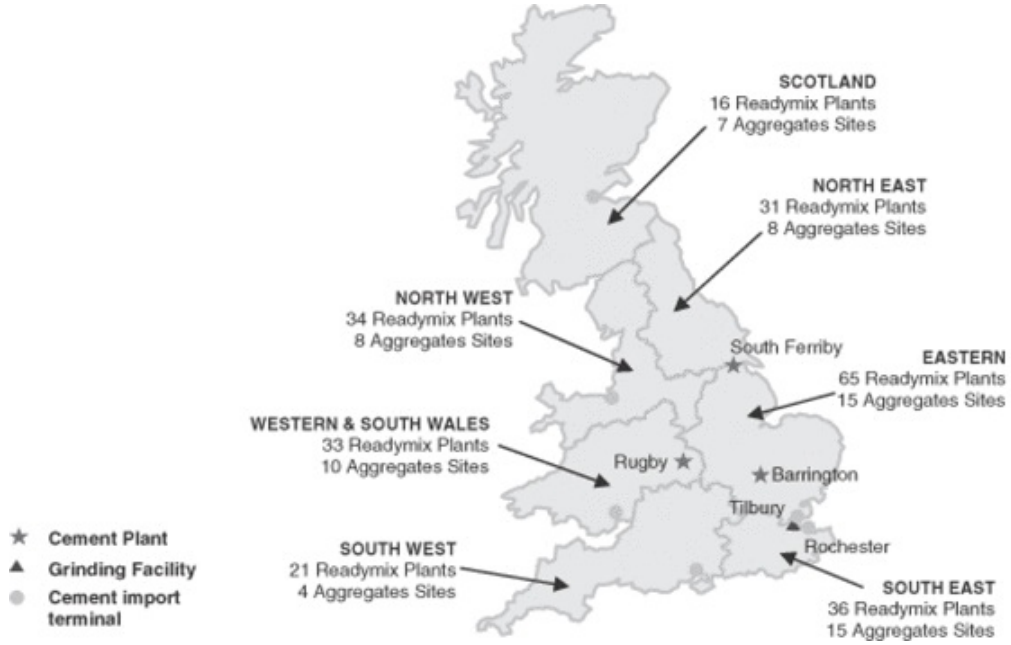
Overview. Our U.K. operations represented approximately 8% of our net sales in Peso terms, before eliminations resulting from consolidation, and approximately 6% of our total assets for the year ended December 31, 2008.

As of December 31, 2008, we held 100% of CEMEX Investments Limited (formerly RMC Group Limited), our operating subsidiary in the United Kingdom. We are a leading provider of building materials in the United Kingdom with vertically integrated cement, ready-mix concrete, aggregates and asphalt operations. We are also an important provider of concrete and precast materials solutions such as concrete blocks, concrete block paving, roof tiles, flooring systems and sleepers for rail infrastructure.

The U.K. Construction Industry. According to the U.K.'s Office for National Statistics, the level of GDP in 2008 as a whole in the U.K. was 0.7% higher than in 2007. Total construction output fell 0.4% in 2008, as compared to a 2.5% growth in 2007 over the preceding year. The new private housing sector declined by 19%, and while the new public housing sector declined by approximately 7.1% in 2008, the rest of the public construction sector showed growth. Infrastructure construction grew by 15.3%, while public works other than public housing grew by 15.9% in 2008. Commercial construction activity continued to grow by 1.6%, while industrial construction activity declined by 19.3% in 2008. Repair and maintenance activity grew by 1.8% in 2008.

Competition. Our primary competitors in the United Kingdom are Lafarge, Heidelberg, Tarmac, and Aggregate Industries (a subsidiary of Holcim), each with varying regional and product strengths.

Our U.K. Operating Network



Products and Distribution Channels

Cement. Our cement operations represented approximately 14% of our U.K. operations' net sales before eliminations resulting from consolidation for the year ended December 31, 2008. About 87% of our cement sales were of bulk cement, with the remaining 13% in bags. Our bulk cement is mainly sold to ready-mix concrete, concrete block and pre-cast product customers and contractors. Our bagged cement is primarily sold to national builders' merchants. During 2008, we did not import any cement or clinker.

Ready-Mix Concrete. Our ready-mix concrete operations represented approximately 29% of our U.K. operations' net sales before eliminations resulting from consolidation in 2008. Special products, including self-compacting concrete, fiber-reinforced concrete, high strength concrete, flooring concrete and filling concrete, represented 13% of our sales volume. Our ready-mix concrete operations in the U.K. in 2008 purchased approximately 74% of their cement requirements from our U.K. cement operations and approximately 70% of their aggregates requirements from our U.K. aggregates operations. Our ready-mix concrete products are mainly sold to public, commercial and residential contractors.

Aggregates. Our aggregates operations represented approximately 25% of our U.K. operations' net sales before eliminations resulting from consolidation in 2008. In 2008, our U.K. aggregates sales were divided as follows: 50% were sand and gravel, 40% limestone and 10% hard stone. In 2008, 16% of our aggregates volumes were obtained from marine sources along the U.K. coast. In 2008, approximately 29% of our U.K. aggregates production was consumed by our own ready-mix concrete operations as well as our asphalt, concrete block and precast operations. We also sell aggregates to major contractors to build roads and other infrastructure projects.

Production Costs

Cement. In 2008, we saw improved productivity at all three of our U.K. cement plants, which achieved a combined operational efficiency of 90%. We continued to implement our cost reduction programs and increased the use of alternative fuels by more than 94% in 2008.

Ready-Mix Concrete. In 2008 we reduced our total production costs by approximately 14% by continuing to implement our cost reduction plans and down-sizing to match lower sales.

Aggregates. In 2008 we reduced fixed production cost by approximately 12% through a site rationalization program and cost controls in response to the market decline.

Description of Properties, Plants and Equipment. As of December 31, 2008, we operated three cement plants and a clinker grinding facility in the United Kingdom, with an installed cement capacity of 2.8 million tons per year. As of that date, we also owned six cement import terminals and operated 236 ready-mix concrete plants and 67 aggregates quarries in the United Kingdom. In addition, we had operating units dedicated to the asphalt, concrete blocks, concrete block paving, roof tiles, sleepers, flooring and other precast businesses in the United Kingdom.

In order to ensure increased availability of blended cements, which are more sustainable based on their reduced clinker factor and use of by-products from other industries, we have built a new grinding and blending facility at the Port of Tilbury, located on the Thames river east of London. The new facility, which started operations during May 2009, has an annual capacity of approximately 1.2 million tons per annum and has increased our U.K. cement capacity by 20%. In total, we expect to spend approximately U.S.$87 million in the construction of this new grinding mill: U.S.$28 million in 2007, U.S.$41 million in 2008 and an estimated U.S.$18 million during 2009.

As part of our Global Cost-Reduction Program we have made temporary capacity adjustments and rationalizations in a cement plant in our U.K. operations. Our Barrington plant shut down cement production. In addition, we have closed approximately 6% of our ready-mix concrete plants and 13% of our aggregates quarries in the U.K.

Capital Expenditures. We made capital expenditures of approximately U.S.$115 million in 2006, U.S.$133 million in 2007 and U.S.$132 million in 2008 in our U.K. operations. We currently expect to make capital expenditures of approximately U.S.$46 million in our U.K. operations during 2009, including those related to the new grinding mill and blending facility at the Port of Tilbury, described above.

Our Rest of Europe Operations

Our operations in the Rest of Europe which, as of December 31, 2008, consisted of our operations in Germany, France, Ireland, Poland, Croatia, the Czech Republic, Latvia and our operations in Austria and Hungary, which we have agreed to sell, as well as our other European assets and our 33% minority interest in a Lithuanian company represented approximately 20% of our 2008 net sales in Peso terms, before eliminations resulting from consolidation, and approximately 10% of our total assets in 2008.

Our German Operations

Overview. As of December 31, 2008, we held 100% of CEMEX Deutschland AG, our operating subsidiary in Germany. We are a leading provider of building materials in Germany, with vertically integrated cement, ready-mix concrete, aggregates and concrete products operations (consisting mainly of prefabricated concrete ceilings and walls). We maintain a nationwide network for ready-mix concrete and aggregates in Germany.

The German Cement Industry. According to Euroconstruct, total construction in Germany increased by 3.1% in 2008. Data from the Federal Statistical Office indicate an increase in construction investments of 3% for 2008, driven by increases in the non-residential and civil engineering sectors of 6% and 3%, respectively. Construction in the residential sector increased slightly by 1%. According to the German Cement Association, total cement consumption in Germany increased by 0.6% to 27.5 million tons in 2008. The concrete and aggregates markets showed similar growth with increases of 0.5% and 1.5%, respectively.

Competition. Our primary competitors in the German cement market are Heidelberg, Dyckerhoff (a subsidiary of Buzzi-Unicem), Lafarge, Holcim and Schwenk, a local German competitor. The ready-mix concrete and aggregates markets in Germany are more fragmented, with more participation of local competitors.

Our German Operating Network

(*) In 2006, we closed the kiln at the Mersmann cement plant, and we do not contemplate resuming kiln operations at this plant,; grinding and packing activities have remained operational.

Description of Properties, Plants and Equipment. As of December 31, 2008, we operated two cement plants in Germany (not including the Mersmann plant). As of December 31, 2008, our installed cement capacity in Germany was 5.3 million tons per year (excluding the Mersmann plant cement capacity). As of that date, we also operated four cement grinding mills, 185 ready-mix concrete plants, 41 aggregates quarries, four land distribution centers and two maritime terminals in Germany.

Capital Expenditures. We made capital expenditures of approximately U.S.$50 million in 2006, U.S.$78 million in 2007 and U.S.$49 million in 2008 in our German operations, and we currently expect to make capital expenditures of approximately U.S.$34 million in 2009.

Our French Operations

Overview. As of December 31, 2008, we held 100% of CEMEX France Gestion SAS, our operating subsidiary in France. We are a leading ready-mix concrete producer and a leading aggregates producer in France. We distribute the majority of our materials by road and a significant quantity by waterways, seeking to maximize the use of this efficient and sustainable alternative.

The French Cement Industry. According to Euroconstruct, total construction output in France declined by 2.2% in 2008. The decrease was primarily driven by decreases of residential construction of 3% and 1.8% in the public works segment. According to the French cement producers association, total cement consumption in France reached 24.1 million tons in 2008, a decrease of 2.3% compared to 2007.

Competition. Our main competitors in the ready-mix concrete market in France include Lafarge, Holcim, Italcementi and Vicat. Our main competitors in the aggregates market in France include Lafarge, Italcementi, Colas (Bouygues) and Eurovia (Vinci). Many of our major competitors in ready-mix concrete are subsidiaries of French cement producers, whereas we must rely on sourcing cement from third parties.

Description of Properties, Plants and Equipment. As of December 31, 2008, we operated 236 ready-mix concrete plants in France, one maritime cement terminal located in LeHavre, on the northern coast of France, 20 land distribution centers and 44 aggregates quarries.

Capital Expenditures. We made capital expenditures of approximately U.S.$33 million in 2006, U.S.$47 million in 2007 and U.S.$41 million in 2008 in our French operations, and we currently expect to make capital expenditures of approximately U.S.$16 million during 2009.

Our Irish Operations

As of December 31, 2008, we held 61.7% of Readymix Plc, our operating subsidiary in the Republic of Ireland. Our operations in Ireland produce and supply sand, stone and gravel as well as ready-mix concrete, mortar and concrete blocks. As of December 31, 2008, we operated 44 ready-mix concrete plants, 27 aggregates quarries and 16 block plants located in the Republic of Ireland, Northern Ireland and the Isle of Man. We import and distribute cement in the Isle of Man.

According to The European Commission, total construction output in the Republic of Ireland is estimated to have decreased by 20.2% in 2008. The decrease reflected by the continued contraction in the housing sector. We estimate that total cement consumption in the Republic of Ireland and Northern Ireland reached 5.4 million tons in 2008, a decrease of 23% compared to total cement consumption in 2007.

Our main competitors in the ready-mix concrete and aggregates markets in Ireland are CRH and Kilsaran.

We made capital expenditures of approximately U.S.$21 million in 2006, U.S.$28 million in 2007 and U.S.$49 million in 2008 in our Irish operations, and we currently expect to make capital expenditures of approximately U.S.$3 million in our Irish operations during 2009.

Our Polish Operations

As of December 31, 2008, we held 100% of CEMEX Polska sp. z.o.o., our operating subsidiary in Poland. We are a leading provider of building materials in Poland serving the cement, ready-mix concrete and aggregates markets. As of December 31, 2008, we operated two cement plants and one grinding mill in Poland, with a total installed cement capacity of 3.0 million tons per year. As of that date, we also operated 42 ready-mix concrete plants and nine aggregates quarries in Poland, including one in which we have a 92.5% interest. As of that date, we also operated 11 land distribution centers and two maritime terminals in Poland.

According to the Central Statistical Office in Poland, total construction output in Poland increased by 12.9% in 2008. In addition, according to the Polish Cement Association, total cement consumption in Poland reached 16.85 million tons in 2008, an increase of 1.5% compared to 2007.

Our primary competitors in the Polish cement, ready-mix concrete and aggregates markets are Heidelberg, Lafarge, CRH and Dyckerhoff.

We made capital expenditures of approximately U.S.$13 million in 2006, U.S.$37 million in 2007 and U.S.$104 million in 2008 in our Polish operations, and we currently expect to make capital expenditures of approximately U.S.$20 million in Poland during 2009.

Our South-East European Operations

As of December 31, 2008, we held 100% of Dalmacijacement d.d., our operating subsidiary in Croatia. We are the largest cement producer in Croatia based on installed capacity as of December 31, 2008, according to our estimates. As of December 31, 2008, we operated three cement plants in Croatia, with an installed capacity of 2.4 million tons per year. As of that date, we also operated 10 land distribution centers, three maritime cement terminals, five ready-mix concrete facilities and one aggregates quarry in Croatia, Bosnia & Herzegovina, Slovenia, Serbia and Montenegro.

According to the Croatian Cement Association, total cement consumption in Croatia alone reached 3.0 million tons in 2008, a decrease of 1% compared to 2007.

Our primary competitors in the Croatian cement market are Nexe and Holcim.

We made capital expenditures of approximately U.S.$12 million in 2006, U.S.$17 million in 2007 and U.S.$14 million in 2008 in our South-East European operations, and we currently expect to make capital expenditures of approximately U.S.$7 million in the region during 2009.

Our Czech Republic Operations

As of December 31, 2008, we held 100% of CEMEX Czech Republic, s.r.o., our operating subsidiary in the Czech Republic. We are a leading producer of ready-mix concrete and aggregates in the Czech Republic. We also distribute cement in the Czech Republic. As of December 31, 2008, we operated 52 ready-mix concrete plants and nine aggregates quarries in the Czech Republic. As of that date, we also operated one cement grinding mill and one cement terminal in the Czech Republic.

According to the Czech Statistical Office, total construction output in the Czech Republic increased by 0.6% in 2008. The increase was primarily driven by growth in the commercial and public works segments driven by inflow of EU funds partially counterbalanced by a slowdown in residential building. According to the Czech Cement Association, total cement consumption in the Czech Republic reached 5.1 million tons in 2008, an increase of 2% compared to 2007.

Our main competitors in the cement, ready-mix concrete and aggregates markets in the Czech Republic are Heidelberg, Dyckerhoff, Holcim, and Lafarge.

We made capital expenditures of approximately U.S.$5 million in 2006, U.S.$11 million in 2007 and U.S.$12 million in 2008 in our Czech Republic operations, and we currently expect to make capital expenditures of approximately U.S.$2 million in the Czech Republic during 2009.

Our Latvian Operations

As of December 31, 2008, we held 100% of SIA CEMEX, our operating subsidiary in Latvia. We are the only cement producer and a leading ready-mix cement producer and supplier in Latvia. From our Latvian cement plant we also supply markets in northwest Russia. As of December 31, 2008, we operated one cement plant in Latvia with an installed cement capacity of 0.5 million tons per year. As of that date, we also operated four ready-mix concrete plants in Latvia and one aggregates quarry.

In April 2006, we initiated a plan to expand our cement plant in Latvia in order to increase our cement production capacity by one million tons per year to support strong demand in the region. The construction was completed during May 2009, although expenditures will continue to be made through 2010. We expect our total capital expenditure in the capacity expansion over the course of four years will be approximately U.S.$385 million, which includes U.S.$11 million, U.S.$86 million and U.S.$174 million invested during 2006, 2007 and 2008, respectively, and an expected U.S.$85 million during 2009.

In total, we made capital expenditures of approximately U.S.$19 million in 2006, U.S.$100 million in 2007 and U.S.$187 million in 2008 in our Latvian operations, and we currently expect to make capital expenditures of approximately U.S.$86 million in our Latvian operations during 2009, including those related to the expansion of our cement plant described above.

Our Lithuanian Equity Investment

As of December 31, 2008, we owned a 33% interest in Akmenes Cementas AB, a Lithuanian cement producer, which operates one cement plant in Lithuania with an installed cement capacity of 1.3 million tons per year.

Our Other European Operations

As of December 31, 2008, we operated 10 marine cement terminals in Finland, Norway and Sweden through Embra AS, a leading bulk-cement importer in the Nordic region.

We made capital expenditures of approximately U.S.$5 million during 2006, U.S.$1 million during 2007 and less than U.S.$1 million during 2008 in our other European operations. We currently expect to make capital expenditures of less than U.S.$1 million in our other European operations during 2009.

European Assets Held for Sale Subject to Regulatory Approval

Our Austrian Operations

As of December 31, 2008, we held 100% of CEMEX Austria AG, our operating subsidiary in Austria. We are a leading participant in the concrete and aggregates markets in Austria and also produce admixtures. As of December 31, 2008, we owned 41 ready-mix concrete plants and 26 aggregates quarries and we had minority interests in 6 other ready-mix plants.

According to the European Commission, total construction investment in Austria grew by 1.5% in 2008. The increase was primarily driven by a positive growth of near 5% in the civil works segment in 2008. According to Euroconstruct estimations, total cement consumption in Austria increased 2.5% in 2008.

Our main competitors in the ready-mix concrete and aggregates markets in Austria are Asamer, Strabag, Wopfinger and Lafarge.

We made capital expenditures of approximately U.S.$23 million in 2006, U.S.$8 million in 2007 and U.S.$15 million in 2008 in our Austrian operations.

As of the filing date of this annual report, the sale of these assets is subject to regulatory approval by Austrian competition authorities. The purchaser has appealed certain conditions imposed by the Austrian competition authorities, which will delay the completion of the sale by at least two months.

Our Hungarian Operations

As of December 31, 2008, we held 100% of Danubiusbeton Betonkészító Kft, our operating subsidiary in Hungary. As of December 31, 2008, we owned 29 ready-mix concrete plants and six aggregates quarries, and we had minority interests in 8 other ready-mix concrete plants.

According to the European Commission, total construction output in Hungary decreased by 4.9% in 2008. The decrease was primarily driven by reduction of public works infrastructure construction. Total cement consumption in Hungary was 3.22 million tons in 2008, a decrease of 8% compared to 2007.

Our main competitors in the ready-mix concrete and aggregates markets in Hungary are Holcim, Heidelberg, Strabag and Lasselsberger.

We made capital expenditures of approximately U.S.$7 million in 2006, U.S.$12 million in 2007 and U.S.$4 million in 2008 in our Hungarian operations.

The sale of these assets was recently approved by Hungarian regulatory authorities. See “Item 5 — Recent Developments — Recent Developments Relating to Our Planned Divestitures of Assets.”

European Assets Sold during 2008

Our Italian Operations

In January 2008, we sold a mill with an installed cement capacity of approximately 750,000 tons per year to Italcementi for U.S.$76.4 million. In February 2008, we sold another mill with an installed capacity of approximately 750,000 tons per year to Buzzi-Unicemen for U.S.$61.1 million. In December 2008, we sold our remaining two grinding mills in Italy with a total installed capacity of 920,000 tons per year to Buzzi-Unicemen for U.S.$73 million.

South America, Central America and the Caribbean

For the year ended December 31, 2008, our business in South America, Central America and the Caribbean, which included our operations in Venezuela (until the Venezuelan government's nationalization), Colombia, Argentina, Costa Rica, the Dominican Republic, Panama, Nicaragua, Puerto Rico and Jamaica, as well as other assets in the Caribbean, represented approximately 9% of our net sales before eliminations resulting from consolidation. As of December 31, 2008, our business in South America, Central America and the Caribbean represented approximately 12% of our total installed capacity and approximately 5% of our total assets.

On August 18, 2008, Venezuelan officials took physical control of the facilities of CEMEX Venezuela, following the issuance on May 27, 2008 of governmental decrees confirming the expropriation of all of CEMEX Venezuela's assets, shares and business. See "Item 4 — Information on the Company — Regulatory Matters and Legal Proceedings — Tax Matters — Nationalization of CEMEX Venezuela and ICSID Arbitration." We consolidated the income statement of CEMEX Venezuela in our results of operations for the seven-month period ended July 31, 2008.

Our Colombian Operations

Overview. As of December 31, 2008, we owned approximately 99.7% of CEMEX Colombia, S.A., or CEMEX Colombia, our operating subsidiary in Colombia. As of December 31, 2008, CEMEX Colombia was the second-largest cement producer in Colombia, based on installed capacity according to the Colombian Institute of Cement Producers. For the year ended December 31, 2008, our operations in Colombia, represented approximately 3% of our net sales before eliminations resulting from consolidation and approximately 2% of our total assets.

CEMEX Colombia has a significant market share in the cement and ready-mix concrete market in the "Urban Triangle" of Colombia comprising the cities of Bogotá, Medellín and Cali. During 2008, these three metropolitan areas accounted for approximately 47% of Colombia's cement consumption. CEMEX Colombia's Ibague plant, which uses the dry process and is strategically located in the Urban Triangle, is Colombia's largest and had an installed capacity of 2.5 million tons as of December 31, 2008. CEMEX Colombia, through its Bucaramanga and Cúcuta plants, is also an active participant in Colombia's northeastern market. CEMEX Colombia's strong position in the Bogotá ready-mix concrete market is largely due to its access to a ready supply of aggregates deposits in the Bogotá area.

The Colombian Cement Industry. According to the Colombian Institute of Cement Producers, the installed capacity for cement in Colombia in 2008 was 14.8 million tons. According to that organization, total cement consumption in Colombia reached 8.96 million tons during 2008, a decrease of 1.5%, while cement exports from Colombia reached 1.7 million tons. We estimate that close to 50.5% of cement in Colombia is consumed by the self-construction sector, while the housing sector accounts for 26.4% of total cement consumption and has been growing in recent years. The other construction segments in Colombia, including the public works and commercial sectors, account for the balance of cement consumption in Colombia.

Competition. The "Grupo Empresarial Antioqueño," or Argos, owns or has interests in 11 of Colombia's 20 cement plants. Argos has established a leading position in the Colombian coastal markets through Cementos Caribe in Barranquilla, Compañía Colclinker in Cartagena and Tolcemento in Tolú. The other principal cement producer is Holcim Colombia.

Our Colombian Operating Network

Products and Distribution Channels

Cement. Our cement operations represented approximately 54% of our Colombian operations' net sales before eliminations resulting from consolidation for the year ended December 31, 2008.

Ready-Mix Concrete. Our ready-mix concrete operations represented approximately 27% of our Colombian operations' net sales before eliminations resulting from consolidation in 2008.

Aggregates. Our aggregates operations represented approximately 5% of our Colombian operations' net sales before eliminations resulting from consolidation in 2008.

Description of Properties, Plants and Equipment. As of December 31, 2008, CEMEX Colombia owned six cement plants, having a total installed capacity of 4.8 million tons per year. Three of these plants utilize the wet process and three plants utilize the dry process. CEMEX Colombia also has an internal electricity generating capacity of 24.7 megawatts. As of December 31, 2008, CEMEX Colombia owned five land distribution centers, one mortar plant, 28 ready-mix concrete plants, and seven aggregates operations. As of that date, CEMEX Colombia also owned five limestone quarries with minimum reserves sufficient for over 100 years at 2008 production levels.

Capital Expenditures. We made capital expenditures of approximately U.S.$31 million in 2006, U.S.$15 million in 2007 and U.S.$19 million in 2008 in our Colombian operations. We currently expect to make capital expenditures of approximately U.S.$8 million in our Colombian operations during 2009.

Our Costa Rican Operations

As of December 31, 2008, we owned a 99.1% interest in CEMEX (Costa Rica), S.A., or CEMEX Costa Rica, our operating subsidiary in Costa Rica and a leading cement producer in the country. As of December 31, 2008, CEMEX Costa Rica operated one cement plant in Costa Rica, with an installed capacity of 0.9 million tons. As of that date, CEMEX Costa Rica also operated a grinding mill in the capital city of San José. As of December 31, 2008, CEMEX Costa Rica operated four ready-mix concrete plants, one aggregates quarry, and one land distribution center.

During 2008, exports of cement by our Costa Rican operations represented approximately 0.3% of our total cement production in Costa Rica. In 2008, 100% of our exports of cement from Costa Rica were to El Salvador.

Approximately 1.6 million tons of cement were sold in Costa Rica during 2008, according to the *Cámara de la Construcción de Costa Rica*, the Costa Rican construction industry association. The Costa Rican cement market is a predominantly retail market, and we estimate that over two thirds of cement sold is bagged cement.

The Costa Rican cement industry includes two producers: CEMEX Costa Rica and Holcim Costa Rica.

We made capital expenditures of approximately U.S.$7 million in 2006, U.S.$5 million in 2007 and U.S.$7 million in 2008 in our Costa Rican operations. We currently expect to make capital expenditures of approximately U.S.$2 million in our Costa Rican operations during 2009.

Our Dominican Republic Operations

As of December 31, 2008, we held 99.9% of CEMEX Dominicana, S.A., or CEMEX Dominicana, our operating subsidiary in the Dominican Republic and a leading cement producer in the country. CEMEX Dominicana's sales network covers the country's main consumption areas, which are Santo Domingo, Santiago de los Caballeros, La Vega, San Pedro de Macoris, Samana and Bavaro. CEMEX Dominicana also has an 18-year lease arrangement with the Dominican Republic government related to the mining of gypsum, which enables CEMEX Dominicana to supply all local and regional gypsum requirements.

In 2008, Dominican cement consumption reached 3.4 million tons. Our principal competitors in the Dominican Republic are Domicem, an Italian cement producer that started cement production in 2005; Cementos Cibao, a local competitor; Cemento Colón, an affiliated grinding operation of Holcim; Cementos Santo Domingo, a cement grinding partnership between a local investor and Cementos La Union from Spain; and Cementos Andinos, a Colombian cement producer which has an installed grinding operation and a partially constructed cement kiln.

As of December 31, 2008, CEMEX Dominicana operated one cement plant in the Dominican Republic, with an installed capacity of 2.6 million tons per year, and held a minority interest in one grinding mill. As of that date, CEMEX Dominicana also owned 10 ready-mix concrete plants, three aggregates quarry, two land distribution centers and two marine terminals.

We made capital expenditures of approximately U.S.$27 million in 2006, U.S.$11 million in 2007 and U.S.$12 million in 2008 in our Dominican Republic operations. We currently expect to make capital expenditures of approximately U.S.$4 million in our Dominican Republic operations during 2009.

Our Panamanian Operations

As of December 31, 2008, we held a 99.5% interest in Cemento Bayano, S.A., or Cemento Bayano, our operating subsidiary in Panama and a leading cement producer in the country. As of December 31, 2008, Cemento Bayano operated one cement plant in Panama, with an installed capacity of 0.5 million tons per year. As of that date, Cemento Bayano also owned and operated 14 ready-mix concrete plants, three aggregates quarries and three land distribution centers.

Approximately 1.7 million cubic meters of ready-mix concrete were sold in Panama during 2008, according to our own estimates. Panamanian cement consumption increased 27% in 2008, according to our estimates. The Panamanian cement industry includes two cement producers: Cemento Bayano and Cemento Panamá, an affiliate of Holcim and Colombian Cementos Argos.

On February 6, 2007, we announced that we intend to build a new kiln at our Bayano plant in Panama, and the project is currently under construction. The new kiln is expected to increase the Bayano plant's annual clinker production capacity by approximately 1.1 million tons giving a total capacity of 1.6 million tons of clinker per year. Cement milling production capacity increased to 1.4 million tons per year with a new mill which started operations in February 2008, although expenditures are scheduled to be made during 2009 and 2010. Construction of the new kiln is expected to be completed by the third quarter of 2009 with an investment of approximately U.S.$251 million, which includes U.S.$31 million made in 2007, U.S.$104 million made in 2008 and an expected U.S.$78 million during 2009.

We made capital expenditures of approximately U.S.$26 million in 2006, U.S.$63 million in 2007 and U.S.$118 million in 2008 in our Panamanian operations. We currently expect to make capital expenditures of approximately U.S.$83 million in our Panamanian operations during 2009, including those related to the construction of the new kiln described above.

Our Nicaraguan Operations

As of December 31, 2008, we owned 100% of CEMEX Nicaragua, S.A., or CEMEX Nicaragua, our operating subsidiary in Nicaragua. As of that date, CEMEX Nicaragua leased and operated one cement plant with an installed capacity of 0.6 million tons. Since March 2003, CEMEX Nicaragua has also leased a 100,000 ton milling plant in Managua, which has been used exclusively for petcoke milling.

According to our estimates, approximately 0.4 million tons of cement were sold in Nicaragua during 2008. Two market participants compete in the Nicaraguan cement industry: CEMEX Nicaragua and Holcim.

As of December 31, 2008, we operated one fixed ready-mix concrete plant and four mobile plants, three aggregate quarries and one distribution center in Nicaragua. According to our estimates, approximately 68 thousand cubic meters of ready-mix concrete were sold in Nicaragua during 2008. According to our estimates, approximately 0.32 million tons of aggregates were sold in Nicaragua during 2008.

We made capital expenditures of approximately U.S.$6 million in 2006, U.S.$5 million in 2007 and U.S.$4 million in 2008 in our Nicaraguan operations. We currently expect to make capital expenditures of approximately U.S.$1 million in our Nicaraguan operations during 2009.

Our Puerto Rican Operations

As of December 31, 2008, we owned 100% of CEMEX de Puerto Rico, Inc., or CEMEX Puerto Rico, our operating subsidiary in Puerto Rico. As of December 31, 2008, CEMEX Puerto Rico operated one cement plant, with an installed cement capacity of approximately 1.2 million tons per year. As of that date, CEMEX Puerto Rico also owned and operated 11 ready-mix concrete plants, one aggregates quarry and two land distribution centers.

In 2008, Puerto Rican cement consumption reached 1.35 million tons. The Puerto Rican cement industry in 2008 was comprised of two cement producers: CEMEX Puerto Rico, and San Juan Cement Co., an affiliate of Italcementi, and Antilles Cement Co., an independent importer.

We made capital expenditures of approximately U.S.$33 million in 2006, U.S.$19 million in 2007 and U.S.$5 million in 2008 in our Puerto Rican operations. We currently expect to make capital expenditures of approximately U.S.$2 million in our Puerto Rican operations during 2009.

Our Guatemalan Operations

In January 2006, we acquired a 51% equity interest in a cement grinding mill facility in Guatemala for approximately U.S.$17 million. As of December 31, 2008, the cement grinding mill had an installed capacity of 500,000 tons per year. In addition, we also owned and operated three land distribution centers and a clinker silo close to a maritime terminal in Guatemala, as well as four ready-mix plants.

We made capital expenditures of approximately U.S.$1 million in 2007 and U.S.$4 million in 2008 in Guatemala, and we currently expect to make capital expenditures of approximately U.S.$1 million in Guatemala during 2009.

Our Other South America, Central America and The Caribbean Operations

As of December 31, 2008, we held 100% of Readymix Argentina S.A., which operates four ready-mix concrete plants in Argentina.

We believe that the Caribbean region holds considerable strategic importance because of its geographic location. As of December 31, 2008, we operated a network of eight marine terminals in the Caribbean region, which facilitated exports from our operations in several countries, including Mexico, Dominican Republic, Costa Rica, Puerto Rico, Spain, Colombia and Panama. Three of our marine terminals are located in the main cities of Haiti, two are in the Bahamas, and one is in Manaus, Brazil. We also have a minority interest in other terminals: one in Bermuda and another in the Cayman Islands.

As of December 31, 2008, we had minority positions in Trinidad Cement Limited, with cement operations in Trinidad and Tobago, Barbados and Jamaica, as well as a minority position in Caribbean Cement Company Limited in Jamaica, National Cement Ltd. in the Cayman Islands and Maxcem Bermuda Ltd. in Bermuda. As of December 31, 2008, we also held a 100% interest in CEMEX Jamaica Limited, which operates a calcinated lime plant in Jamaica with a capacity of 120,000 tons per year.

We made capital expenditures in our other operations in South America, Central America and the Caribbean of approximately U.S.$2 million in 2006, U.S.$3 million in 2007 and U.S.$2 million in 2008. We do not expect to make any significant capital expenditures during 2009 in our other operations in South America, Central America and the Caribbean.

Africa And The Middle East

For the year ended December 31, 2008, our business in Africa and the Middle East, which includes our operations in Egypt, the United Arab Emirates and Israel, represented approximately 5% of our net sales before eliminations resulting from consolidation. As of December 31, 2008, our business in Africa and the Middle East represented approximately 6% of our total installed capacity and approximately 3% of our total assets.

Our Egyptian Operations

As of December 31, 2008, we had a 95.8% interest in Assiut Cement Company, or Assiut, our operating subsidiary in Egypt. As of December 31, 2008, we operated one cement plant in Egypt, with an installed capacity of approximately 5.3 million tons. This plant is located approximately 200 miles south of Cairo and serves the upper Nile region of Egypt, as well as Cairo and the delta region, Egypt's main cement market. In addition, as of December 31, 2008, we operated three ready-mix concrete plants and seven land distribution centers in Egypt. For the year ended December 31, 2008, our operations in Egypt represented approximately 2% of our net sales before eliminations resulting from consolidation and approximately 1% of our total assets.

According to our estimates, the Egyptian market consumed approximately 38.7 million tons of cement during 2008. Cement consumption increased by 12.2% in 2008, mainly driven by residential, tourism and commercial construction sectors. As of December 31, 2008, the Egyptian cement industry had a total of ten cement producers, with an aggregate annual installed cement capacity of approximately 45 million tons. According to the Egyptian Cement Council, during 2008, Holcim (minority shareholder in Egyptian Cement Company), Lafarge (Alexandria Portland Cement and Beni Suef Cement), CEMEX (Assiut) and Italcementi (Suez Cement, Tourah Cement and Helwan Portland Cement), four of the largest cement producers in the world, represented approximately 68% of the total installed capacity in Egypt. Other significant competitors in the Egyptian market are Ameriyah (Cimpor), National, Sinai, Misr Beni Suef and Misr Quena Cement Companies.

For the year ended December 31, 2008, cement represented approximately 89% and ready-mix concrete represented approximately 9% of our Egyptian operations' net sales before eliminations resulting from consolidation.

We made capital expenditures of approximately U.S.$16 million in 2006, U.S.$27 million in 2007 and U.S.$59 million in 2008 in our Egyptian operations. We currently expect to make capital expenditures of approximately U.S.$21 million in our Egyptian operations during 2009.

Our United Arab Emirates (UAE) Operations

As of December 31, 2008, we held a 49% equity interest (and 100% economic benefit) in three UAE companies: CEMEX Topmix LLC and CEMEX Supermix LLC, two ready-mix holding companies, and CEMEX Falcon LLC, which specializes in the trading and production of cement and slag. We are not allowed to have a majority interest in these companies since UAE law requires 51% ownership by UAE nationals. However, through agreements with other shareholders in these companies, we have purchased the remaining 51% of the economic benefits in each of the companies. As a result, we own a 100% economic interest in all three companies. As of December 31, 2008, we owned 14 ready-mix concrete plants and a new cement and slag grinding facility in the UAE, serving the markets of Dubai, Abu Dhabi, and Sharjah.

In the second quarter of 2008, we completed the construction of a new grinding facility for cement and slag in Dubai for which we invested approximately U.S.$54 million. The new grinding facility increased our total grinding capacity in the region to approximately 1.5 million tons per year.

We made capital expenditures of approximately U.S.$24 million in 2006, U.S.$55 million in 2007 and U.S.$19 million in 2008 in our UAE operations, including those related to the construction of the new grinding facility in Dubai described above. We currently expect to make capital expenditures of approximately U.S.$4 million in our UAE operations during 2009.

Our Israeli Operations

As of December 31, 2008, we held 100% of CEMEX Holdings (Israel) Ltd., our operating subsidiary in Israel. We are a leading producer and supplier of raw materials for the construction industry in Israel. In addition to ready-mix concrete and aggregates, we produce a diverse range of building materials and infrastructure products in Israel. As of December 31, 2008, we operated 57 ready-mix concrete plants, nine aggregates quarries, one concrete products plant, one admixtures plant, one asphalt plant, one lime factory and one blocks factory in Israel.

During the second quarter of 2008 we acquired the remaining 50% of Lime & Stone Production Company Ltd (L&S), a leading aggregates producer in Israel and an important supplier of lime, asphalt and blocks, for U.S. $41 million. As of December 31, 2008, CEMEX Holdings (Israel) Ltd holds 100% of L&S.

We made capital expenditures of approximately U.S.$7 million in 2006, U.S.$5 million in 2007 and U.S.$7 million in 2008 in our Israeli operations, and we currently expect to make capital expenditures of approximately U.S.$4 million in our Israeli operations during 2009.

Australia and Asia

For the year ended December 31, 2008, our operations in Australia and Asia, our operations in the Philippines, Thailand and Malaysia, as well as our other assets in Asia) represented approximately 9% of our net sales before eliminations resulting from consolidation. As of December 31, 2008, our operations in Australia and Asia represented approximately 7% of our total installed capacity and approximately 7% of our total assets.

Our Australian Operations

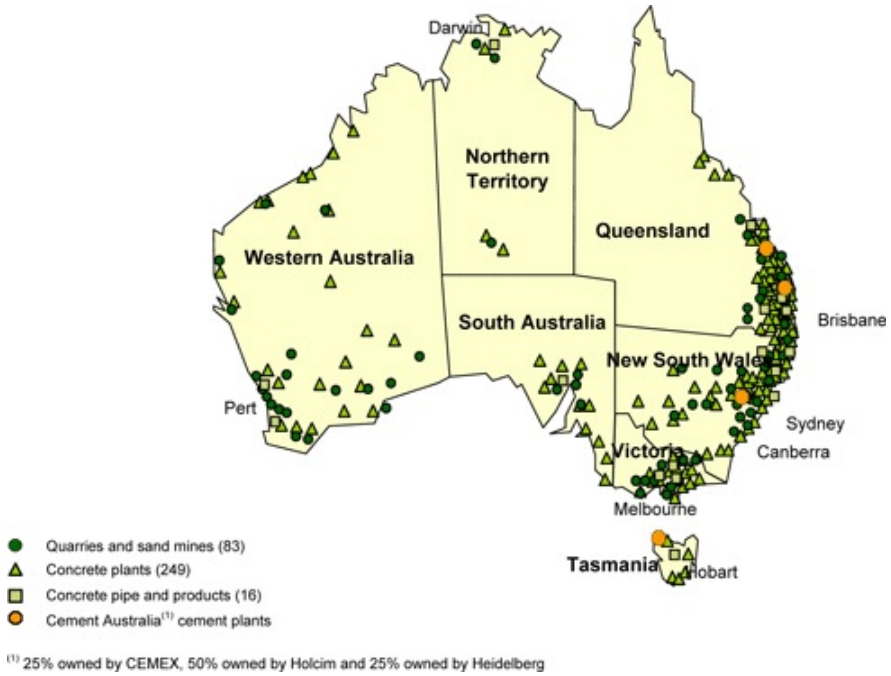
Overview. We conduct our operations in Australia through CEMEX Australia Pty Limited (known also as Readymix or, before March 1, 2008, as Rinker Australia Pty Limited), our operating subsidiary. CEMEX Australia is a vertically integrated heavy building materials business with leading market positions in Australia. As of December 31, 2008, we held 100% of CEMEX Australia. At that date, CEMEX Australia operated 249 ready-mix plants, 83 quarries and sand mines and 16 concrete pipe and product plants. Concrete pipes and products are produced by the CEMEX Australia's Humes business. As of December 31, 2008, CEMEX Australia also held a 25% interest in Australia's largest cement manufacturer, Cement Australia. The Cement Australia joint venture has the capacity to produce over three million metric tons of cement a year from four plants in Gladstone, Rockhampton, Kandos and Railton. Cement Australia also operates 17 land distribution centers and 7 marine terminals.

On June 15, 2009, we announced our agreement to sell all our Australian operations to Holcim for approximately 2.02 billion Australian Dollars (approximately US$1.62 billion considering the exchange rate of 1.25 AUD$ per US Dollar at June 15, 2009). The transaction is subject to regulatory approval, due diligence and other closing conditions. Our facilities in Australia include 249 ready-mix plants, 83 aggregate quarries, 16 concrete pipe and precast products plants, and our 25% stake in Cement Australia.

The Australian Construction and Building Industry . As of December 31, 2008, the Australian Bureau of Statistics estimated that total construction spending by segment was about 31% for residential, 22% for commercial and 47% for civil. Total construction spending increased by 10% for the year ended December 31, 2008 compared to the year ended December 31, 2007. Residential spending was up by 2.3%, commercial spending by 6.7% and civil spending by 17.4%.

Competition. As of December 31, 2008, CEMEX Australia's major competitors in the Australian aggregates and ready-mix markets were Boral Limited and Hanson Australia Pty Limited (a 100%-owned Heidelberg Cement subsidiary). The main competitor in the concrete pipe and products market was Rocla Pty Ltd, and there were also small companies which competed in individual regional sectors of that market. As of December 31, 2008, the main competitors in the Australian cement market were Cement Australia (25% interest held by CEMEX Australia), Blue Circle Southern Cement Pty Limited (a 100% owned Boral subsidiary) and Adelaide Brighton Limited.

Our Australian Operating Network



Description of Properties, Plants and Equipment. As of December 31, 2008, our Australian operations included 83 quarries and sand mines, 249 ready-mix plants, 16 concrete pipe and product plants in Australia. We also held a 25% interest in the Cement Australia joint venture, which operated four cement plants, with a total cement installed capacity of approximately 3.8 million metric tons per year, and seven cement marine terminals.

For the year ended December 31, 2008, our ready-mix operations represented 51% of our Australian net sales, and aggregates represented 34% of net sales before eliminations resulting from consolidation. We made capital expenditures of approximately U.S.$31 million in 2007 and U.S.$68 million in 2008 in our Australian operations, and we currently expect to make capital expenditures of approximately U.S.$21 million in our Australian operations during 2009.

Our Philippine Operations

As of December 31, 2008, on a consolidated basis through various subsidiaries, we held 100% of the economic benefits of our two operating subsidiaries in the Philippines, Solid and APO Cement Corporation (APO). For the year ended December 31, 2008, our operations in the Philippines represented approximately 1% of our net sales before eliminations resulting from consolidation and approximately 1% of our total assets.

According to Cement Manufacturers' Association of the Philippines (CEMAP), cement consumption in the Philippine market, which is primarily retail, totaled 13 million tons during 2008. Philippine demand for cement increased by approximately 1% in 2008 against 2007.

As of December 31, 2008, the Philippine cement industry had a total of 17 cement plants. Annual installed clinker capacity is 19 million metric tons, according to CEMAP. As of December 31, 2008, our major competitors in the Philippine cement market were Lafarge, Holcim,Taiheiyo, Pacific, Northern and Goodfound.

In October 2008, we started the dismantling and sale of two wet process kilns of the Solid plant located in Tagbak, Antipolo City. We received U.S.$0.9 million in proceeds from this transaction.

As of December 31, 2008, our Philippine operations included three cement plants with a total capacity of 4.5 million tons per year, six land distribution centers and four marine distribution terminals.

For the year ended December 31, 2008, our cement operations represented 100% of our Philippine operations' net sales before eliminations resulting from consolidation.

We made capital expenditures of approximately U.S.$11 million in 2006, U.S.$15 million in 2007 and U.S.$15 million in 2008 in our Philippine operations. We currently expect to make capital expenditures of approximately U.S.$8 million in our Philippine operations during 2009.

Our Thai Operations

As of December 31, 2008, we held, on a consolidated basis, 100% of the economic benefits of CEMEX (Thailand) Co. Ltd., or CEMEX (Thailand), our operating subsidiary in Thailand. As of December 31, 2008, CEMEX (Thailand) owned one cement plant in Thailand, with an installed capacity of approximately 1.2 million tons.

According to our estimates, at December 31, 2008, the cement industry in Thailand had a total of 14 cement plants, with an aggregate annual installed capacity of approximately 55.5 million tons. We estimate that there are six major cement producers in Thailand, four of which represent approximately 95% of installed capacity and 93% of the market. Our major competitors in the Thai market, which have a significantly larger presence than CEMEX (Thailand), are Siam Cement, Holcim, TPI Polene and Italcementi.

We made capital expenditures of approximately U.S.$4 million in 2006, U.S.$4 million in 2007 and U.S.$3 million in 2008 in our Thai operations. We currently expect to make capital expenditures of approximately U.S.$1 million in our Thai operations during 2009.

Our Malaysian Operations

As of December 31, 2008, we held on a consolidated basis 100% of the economic benefits of our operating subsidiaries in Malaysia. We are a leading ready-mix concrete producer in Malaysia, with a significant share in the country's major urban centers. As of December 31, 2008, we operated 17 ready-mix concrete plants, five asphalt plants and three aggregates quarries in Malaysia.

Our main competitors in the ready-mix concrete and aggregates markets in Malaysia are YTL, Lafarge and Heidelberg.

We made capital expenditures of approximately U.S.$2 million in 2006, U.S.$2 million in 2007 and U.S.$3 million in 2008 in our Malaysian operations. We currently expect to make capital expenditures of approximately U.S.$1 million in our Malaysian operations during 2009.

Our Other Asian Operations

Since April 2001, we have been operating a grinding mill near Dhaka, Bangladesh. As of December 31, 2008, this mill had a production capacity of 520,000 tons per year. A majority of the supply of clinker for the mill is produced by our operations in the region. In addition, since June 2001, we have also operated a cement terminal in the port of Taichung located on the west coast of Taiwan.

As of December 31, 2008, we also operated four ready-mix concrete plants in China, located in the northern cities of Tianjin and Qingdao, which we acquired through the Rinker acquisition.

We made capital expenditures in our other Asian operations of approximately U.S.$1 million in 2006, U.S.$5 million in 2007 and less than U.S.$1 million in 2008, and we do not currently expect to make any significant capital expenditures in these operations in 2009.

Our Trading Operations

In 2008, we traded approximately 11 million tons of cementitious materials, including 9 million tons of cement and clinker. Approximately 71% of the cement and clinker trading volume in 2008 consisted of exports from our operations in Costa Rica, Croatia, the Czech Republic, the Dominican Republic, Germany, Guatemala, Latvia, Mexico, the Philippines, Poland, Puerto Rico, Spain, USA and Venezuela (until the Venezuelan government's nationalization). The remaining approximate 29% was purchased from third parties in countries such as Belgium, China, Denmark, Germany, Israel, Japan, Lithuania, South Korea, Taiwan, Thailand and Turkey. As of December 31, 2008, we had trading activities in 105 countries. In 2008, we traded approximately 1.9 million metric tons of granulated blast furnace slag, a non-clinker cementitious material.

Our trading network enables us to maximize the capacity utilization of our facilities worldwide while reducing our exposure to the inherent cyclicality of the cement industry. We are able to distribute excess capacity to regions around the world where there is demand. In addition, our worldwide network of strategically located marine terminals allows us to coordinate maritime logistics on a global basis and minimize transportation expenses. Our trading operations also enable us to explore new markets without significant initial capital expenditure.

Freight rates, which account for a large share of the total import supply cost, have been subject to significant volatility in recent years. Our trading operations, however, have obtained significant savings by contracting maritime transportation in due time and by using our own chartered fleet, which transported approximately 31% of our cement and clinker import volume during 2008.

In addition, based on our spare fleet capacity, we provide freight service to third parties, thus providing us with valuable shipping market information and generating additional revenues.

Regulatory Matters and Legal Proceedings

A description of material regulatory and legal matters affecting us is provided below.

Tariffs

The following is a discussion of tariffs on imported cement in our major markets.

Mexico. Mexican tariffs on imported goods vary by product and have been as high as 100%. In recent years, import tariffs have been substantially reduced and currently range from none at all for raw materials to over 20% for finished products, with an average weighted tariff of approximately 3.7%. As a result of the North American Free Trade Agreement, or NAFTA, as of January 1, 1998, the tariff on cement imported into Mexico from the United States or Canada was eliminated. However, a tariff in the range of 7% ad valorem will continue to be imposed on cement produced in all other countries unless tariff reduction treaties are implemented or the Mexican government unilaterally reduces that tariff. While the reduction in tariffs could lead to increased competition from imports in our Mexican markets, we anticipate that the cost of transportation from most producers outside Mexico to central Mexico, the region of highest demand, will remain an effective barrier to entry.

United States. There are no tariffs on cement imported into the United States from any country, except Cuba and North Korea.

Europe. Member countries of the European Union are subject to the uniform European Union commercial policy. There is no tariff on cement imported into a country that is a member of the European Union from another member country or on cement exported from a European Union country to another member country. For cement imported into a member country from a non-member country, the tariff is currently 1.7% of the customs value. Any country with preferential treatment with the European Union is subject to the same tariffs as members of the European Union. Most Eastern European producers exporting cement into European Union countries currently pay no tariff.

Environmental Matters

We are subject to a broad range of environmental laws and regulations in each of the jurisdictions in which we operate. These laws and regulations impose increasingly stringent environmental protection standards regarding, among other things, air emissions, wastewater discharges, the use and handling of hazardous waste or materials, waste disposal practices and the remediation of environmental damage or contamination. These standards expose us to the risk of substantial environmental costs and liabilities, including liabilities associated with divested assets and past activities, even conducted by prior owners or operators and, in some jurisdictions, without regard to fault or the lawfulness of the original activity.

To prevent, control and remediate environmental problems and maintain compliance with regulatory requirements, we maintain an environmental policy designed to monitor and control environmental matters. Our environmental policy requires each subsidiary to respect local laws and meet our own internal standards to minimize the use of non-renewable resources and the generation of hazardous and other wastes. We use processes that are designed to reduce the impact of our operations on the environment throughout all the production stages in all our operations worldwide. We believe that we are in substantial compliance with all material environmental laws applicable to us.

We regularly incur capital expenditures that have an environmental component or that are impacted by environmental regulations. However, we do not keep separate accounts for such mixed capital and environmental expenditures. Environmental expenditures that extend the life, increase the capacity, improve the safety or efficiency of assets or are incurred to mitigate or prevent future environmental contamination may be capitalized. Other environmental costs are expensed when incurred. For the years ended December 31, 2006 and 2007, our environmental capital expenditures and remediation expenses were not material. For the year ended December 31, 2008, our environmental capital expenditures and remediation expenses were of approximately U.S.$62 million. However, our environmental expenditures may increase in the future.

The following is a discussion of the environmental regulation and matters in our major markets.

Mexico. We were one of the first industrial groups in Mexico to sign an agreement with the *Secretaría del Medio Ambiente y Recursos Naturales*, or SEMARNAT, the Mexican government's environmental ministry, to carry out voluntary environmental audits in our 15 Mexican cement plants under a government-run program. In 2001, the Mexican environmental protection agency in charge of the voluntary environmental auditing program, the *Procuraduría Federal de Protección al Ambiente*, or PROFEPA, which is part of SEMARNAT, completed auditing our 15 cement plants and awarded all our plants a *Certificado de Industria Limpia*, or Clean Industry Certificate,

certifying that our plants are in full compliance with environmental laws. The Clean Industry Certificates are strictly renewed every two years. As of this date, all of our cement plants have Clean Industry Certificates or are in the process of renewing them. We expect renewal of all currently expired Clean Industry Certificates.

For over a decade, the technology for recycling used tires into an energy source has been employed in our Ensenada and Huichapan plants. Our Monterrey and Hermosillo plants started using tires as an energy source in September 2002 and November 2003, respectively. In 2004, our Yaqui, Tamuín, Guadalajara and Barrientos plants also started using tires as an energy source, and by the end of 2006, all our cement plants in Mexico were using tires as an alternative fuel. Municipal collection centers in Tijuana, Mexicali, Ensenada, Mexico City, Reynosa, Nuevo Laredo and Guadalajara currently enable us to recycle an estimated 10,000 tons of tires per year. Overall, approximately 5.41% of the total fuel used in our 15 operating cement plants in Mexico during 2008 was comprised of alternative substituted fuels.

Between 1999 and March 2009, our Mexican operations have invested approximately U.S.$50.24 million in the acquisition of environmental protection equipment and the implementation of the ISO 14001 environmental management standards of the International Organization for Standardization, or ISO. The audit to obtain the renewal of the ISO 14001 certification took place during April 2006. All our operating cement plants in Mexico and an aggregates plant in Monterrey have obtained the renewal of the ISO 14001 certification for environmental management systems.

United States. CEMEX, Inc. is subject to a wide range of U.S. Federal, state and local laws, regulations and ordinances dealing with the protection of human health and the environment. These laws are strictly enforced and can lead to significant monetary penalties for noncompliance. These laws regulate water discharges, noise, and air emissions, including dust, as well as the handling, use and disposal of hazardous and non-hazardous waste materials. These laws also create a shared liability by responsible parties for the cost of cleaning up or correcting releases to the environment of designated hazardous substances. We therefore may have to remove or mitigate the environmental effects of the disposal or release of these substances at CEMEX, Inc.'s various operating facilities or elsewhere. We believe that our current procedures and practices for handling and managing materials are generally consistent with the industry standards and legal and regulatory requirements, and that we take appropriate precautions to protect employees and others from harmful exposure to hazardous materials.

Several of CEMEX, Inc.'s previously owned and currently owned facilities have become the subject of various local, state or Federal environmental proceedings and inquiries in the past. While some of these matters have been settled, others are in their preliminary stages and may not be resolved for years. The information developed to date on these matters is not complete. CEMEX, Inc. does not believe it will be required to spend significantly more on these matters than the amounts already recorded in our consolidated financial statements included elsewhere in this annual report. However, it is impossible for CEMEX, Inc. to determine the ultimate cost that it might incur in connection with such environmental matters until all environmental studies and investigations, remediation work, negotiations with other parties that may be responsible, and litigation against other potential sources of recovery have been completed. With respect to known environmental contingencies, CEMEX, Inc. has recorded provisions for estimated probable liabilities, and we do not believe that the ultimate resolution of such matters will have a material adverse effect on our financial results.

As of March 31, 2009, CEMEX, Inc. and its subsidiaries had accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately U.S.$40.1 million. The environmental matters relate to (i) the disposal of various materials, in accordance with past industry practice, which might be categorized as hazardous substances or wastes, and (ii) the cleanup of sites used or operated by CEMEX, Inc., including discontinued operations, regarding the disposal of hazardous substances or wastes, either individually or jointly with other parties. Most of the proceedings are in the preliminary stage, and a final resolution might take several years. For purposes of recording the provision, CEMEX, Inc. considers that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. Based on information developed to date, CEMEX, Inc. does not believe it will be required to spend significant sums on these matters, in excess of the amounts previously recorded. The ultimate cost that might be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work, and negotiations with or litigation against potential sources of recovery have been completed.

CEMEX Construction Materials Florida, LLC (formerly Rinker Materials of Florida, Inc.), a subsidiary of CEMEX, Inc., holds one federal quarry permit and is the beneficiary of one of ten other federal quarrying permits granted for the Lake Belt area in South Florida. The permit held by CEMEX Florida covers CEMEX Florida's SCL and FEC quarries. CEMEX Florida's Krome quarry is operated under one of the other federal quarry permits. The FEC quarry is the largest of CEMEX Florida's quarries measured by volume of aggregates mined and sold. CEMEX Florida's Miami cement mill is located at the SCL quarry and is supplied by that quarry. A ruling was issued on March 22, 2006 by a judge of the U.S. District Court for the Southern District of Florida in connection with litigation brought by environmental groups concerning the manner in which the permits were granted. Although not named as a defendant, CEMEX Florida has intervened in the proceedings to protect its interests. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the relevant governmental agencies in connection with the issuance of the permits. The judge remanded the permits to the relevant governmental agencies for further review. As part of this review, on May 1, 2009 the Army Corps of Engineers issued a Final Supplemental Environmental Impact Statement and stated it would be accepting public comments until June 8, 2009. The judge also conducted further proceedings to determine the activities to be conducted during the remand period. In July 2007, the judge issued a ruling that halted certain quarrying operations at three non-CEMEX Florida quarries. The judge left in place CEMEX Florida's Lake Belt permits until the relevant government agencies complete their review. In a May 2008 ruling, the federal appellate court determined that the district court judge did not apply the proper standard of review to the permit issuance decision of the governmental agency, vacated the district court's prior order, and remanded the proceeding to the district court to apply the proper standard of review. In January 2009, the district court judge issued an order withdrawing the extraction permits of the three quarries. The order does not limit the processing of the materials previously excavated, which will be processed throughout the following months. We are appealing this ruling. We are continuing the ongoing process with the Army Corps of Engineers to obtain new permits that would allow mining for 10-15 years, depending on demand. This process is well under way, and, if and when issued, new permits would allow all mining activities to resume in the newly permitted areas. If the Lake Belt permits were ultimately permanently set aside or quarrying operations under them permanently restricted, CEMEX Florida would need to source aggregates, to the extent available, from other locations in Florida or import aggregates. This would likely affect profits from our Florida operations. Any adverse impacts on the Florida economy arising from the cessation or significant restriction of quarrying operations in the Lake Belt could also have a material adverse effect on our financial results.

Europe. In Great Britain, future expenditure on closed and current landfill sites has been assessed and quantified over the period in which the sites are considered to have the potential to cause environmental harm, generally consistent with the regulator view of up to 60 years from the date of closure. The assessed expenditure relates to the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure. The costs have been quantified on a net present value basis in the amount of approximately £125 million (approximately U.S.$182 million), and an accounting provision for this amount was made at December 31, 2008.

In 2003, the European Union adopted a directive implementing the Kyoto Protocol on climate change and establishing a greenhouse gas emissions allowance trading scheme within the European Union. The directive requires Member States to impose binding caps on carbon dioxide emissions from installations involved in energy activities, the production and processing of ferrous metals, the mineral industry (including cement production) and the pulp, paper or board production business. Under this scheme, companies with operations in these sectors receive from the relevant Member States allowances that set limitations on the levels of greenhouse gas emissions from their installations. These allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that are not reaching their emissions objectives. Companies can also use credits issued from the use of the flexibility mechanisms under the Kyoto protocol to fulfill their European obligations. These flexibility mechanisms provide that credits (equivalent to allowances) can be obtained by companies for projects that reduce greenhouse gas emissions in emerging markets. These projects are referred to as Clean Development Mechanism ("CDM") or joint implementation projects, depending on the countries where they take place. Failure to meet the emissions caps is subject to heavy penalties.

Companies can also use, up to a certain level, credits issued under the flexible mechanisms of the Kyoto protocol to fulfill their European obligations. Credits for emission reduction projects obtained under these mechanisms are recognized, up to a certain level, under the European emission trading scheme as allowances. To obtain these emission reduction credits, companies must comply with very specific and restrictive requirements from the United Nations Convention on Climate Change.

As required by the directive, each of the Member States established a National Allocations Plan, or NAP, that defines the free allocation to each industrial facility for Phase II (2008 through 2012). Although the overall yearly volume of allowances in Phase II is significantly lower than that during Phase I of the ETS (2005-2007) we do not see any significant risk that CEMEX will be short of allowances in Phase II; this is the result of various factors, notably a reasonable allocation policy in some countries, our efforts to reduce emissions per unit of clinker, reduced demand for our products, and the use of certain risk-free financial instruments. We expect to be a net seller of allowances over Phase II, even under the assumption of the worst case in terms of allocation (see below). In addition, we are actively pursuing a strategy aimed at generating additional emission credits through the implementation of CDM projects. Despite having already sold a substantial amount of allowances for Phase II, we believe the overall volume of transactions is justified by our most conservative emissions forecast, meaning that the risk of having to buy allowances in the market in the future is very low. As of December 31, 2007, the market value of carbon dioxide allowances for Phase I was €0.03 per ton. As of March 31, 2009, the market value of carbon dioxide allowances for Phase II was approximately €11.45 per ton. We are taking appropriate measures to minimize our exposure to this market while assuring the supply of our products to our customers.

The Spanish NAP has been approved by the Spanish Government, reflecting the conditions that were set forth by the European Commission. The allocations made to our installations allow us to foresee a reasonable availability of allowances; nevertheless, there remains the uncertainty regarding the allocations that, against the reserve for new entrants, we intend to request for the new cement plant in Andorra (Teruel), whose construction has been postponed.

In the case of the U.K., Germany, Poland and Latvia, NAPs have been approved by the European Commission and allowances have been issued to our existing installations. There remains a small uncertainty in the amount of allocation to capacity expansions in Latvia and (to a lesser extent) Germany.

On January 9, 2009, we received a positive answer from U.K. authorities to a request we filed in late 2008 to retain the allocation of allowances for our Barrington plant after this facility was closed permanently in November 2008 and its production moved to our South Ferriby plant.

On May 29, 2007, the Polish government filed an appeal before the Court of First Instance in Luxembourg regarding the European Commission's rejection of the initial version of the Polish NAP. The court has denied Poland's request for a quick path verdict in the case, keeping the case in the regular proceeding path. The Polish government has thus started to prepare internal rules on division of allowances at the level already accepted by the European Commission. Seven major Polish cement producers, representing 98% of Polish cement production (including CEMEX Polska), have also filed seven separate appeals before the Court of First Instance regarding the European Commission's rejection. On September 29, 2008, the Court of First Instance issued an order rejecting CEMEX Polska's appeal without considering the merits of the case.

The Latvian NAP for Phase II has been approved by the European Commission and the Latvian government. On October 30, 2008, the Latvian Ministry of Environment adopted a decision on distribution of allowances. The number of allowances for our existing cement line has been assigned; however, allocation for our new cement plant, which would come out of the reserve for new entrants, is still uncertain.

Croatia is also in the process of implementing an emissions trading scheme that will be compatible to and linked with the one in force in the European Union. The planned starting date is 2010; the inclusion of our Croatian operations in the emissions trading scheme is not expected to significantly impact our overall position.

In December 2008, the European Commission, Council and Parliament reached an agreement on the new directive that will govern emissions trading after 2012. Although the new directive is much more detailed on the allocation process than the old one, in particular considering a European-wide benchmark to allocate free allowances among installations in the cement sector, there is still significant uncertainty concerning the amount of allowances that will be freely allocated to CEMEX. Therefore, it is premature to make statements about CEMEX's balance in Phase III of the emissions trading scheme (2013 – 2020).

The Club of Environmental Protection, a Latvian environmental protection organization (the "Applicant"), has initiated a Latvian court administrative proceeding against the decision made by the Latvian Environmental State Bureau (the "Defendant") in order to amend the environmental pollution permit (the "Permit") for the Broceni

cement plant in Latvia, owned by CEMEX SIA (the "Disputed Decision"). CEMEX SIA was invited to participate in the court proceedings as a third party, whose rights and legal interest may be infringed by the relevant administrative act. On June 5, 2008, the court rendered its judgment, granting the Applicant's claim and revoking the Disputed Decision, declaring it illegal because Defendant failed to perform public inquiry in accordance with legal regulations. The judgment was appealed by both the Defendant and CEMEX SIA before the Court of Appeal, and on May 20, 2009, the Court of Appeal decided that the Defendant must supplement the Permit with the requirements applicable as of January 1, 2008 on the emission limits of hard particles for clinker melting-on stove. This amendment to the Permit will not adversely affect CEMEX SIA's operations in the existing plant, unless the competent authorities decide to lower the emission limit. The rest of the Applicant's claims were rejected by the court. The judgment may be appealed by Applicant before the Senate of the Supreme Court no later than June 19, 2009. As of the date of this annual report, the Applicant has not appealed the judgment.

Anti-Dumping

U.S. Anti-Dumping Rulings — Mexico. Our exports of Mexican gray cement from Mexico to the United States were subject to an anti-dumping order that was imposed by the Commerce Department on August 30, 1990. Pursuant to this order, firms that imported gray Portland cement from our Mexican operations in the United States had to make cash deposits with the U.S. Customs Service to guarantee the eventual payment of anti-dumping duties. As a result, since that year and until April 3, 2006, we paid anti-dumping duties for cement and clinker exports to the United States at rates that fluctuated between 37.49% and 80.75% over the transaction amount. Beginning in August 2003, we paid anti-dumping duties at a fixed rate of approximately U.S.$52.41 per ton, which decreased to U.S.$32.85 per ton starting December 2004 and to U.S.$26.28 per ton in January 2006. As described below, during the first quarter of 2006, the U.S. and Mexican governments entered into an agreement pursuant to which restrictions imposed by the United States on Mexican cement imports will be eased during a three-year transition period and completely eliminated following the transition period.

U.S./Mexico Anti-Dumping Settlement Agreement. On January 19, 2006, officials from the Mexican and the United States governments announced that they had reached an agreement in principle that would bring to an end the long-standing dispute over anti-dumping duties on Mexican cement exports to the United States. According to the agreement, restrictions imposed by the United States would be introduced gradually during a three-year transition period and completely eliminated in early 2009 if Mexican cement producers complied with its terms during the transition period, allowing cement from Mexico to enter the U.S. without duties or other limits on volumes. In 2006, Mexican cement imports into the U.S. were subject to volume limitations of three million tons per year. During the second and third years of the transition period, this amount could be increased or decreased in response to market conditions, subject to a maximum increase or decrease of 4.5%. For the second year of the transition period, the amount was increased by 2.7% while for the third year of the transition period, the amount was decreased by 3.1%. Quota allocations to companies importing Mexican cement into the United States were made on a regional basis. The anti-dumping duty during the three-year transition period was lowered to U.S.$3.00 per ton, effective as of April 3, 2006, from the previous amount of U.S.$26.28 per ton.

On March 6, 2006, the Office of the United States Trade Representative and the Commerce Department entered into an agreement with the Mexican *Secretaría de Economía*, providing for the settlement of all administrative reviews and all litigation pending before NAFTA and World Trade Organization panels challenging various anti-dumping determinations involving Mexican cement. As part of the settlement, the Commerce Department agreed to compromise its claims for duties with respect to imports of Mexican cement. The Commerce Department and the *Secretaría de Economía* will monitor the regional export limits through export and import licensing systems. The agreement provided that upon the effective date of the agreement, April 3, 2006, the Commerce Department would order the U.S. Customs Service to liquidate all entries covered by all the completed administrative reviews for the periods from August 1, 1995 through July 31, 2005, plus the unreviewed entries made between August 1, 2005 and April 2, 2006, and refund the cash deposits in excess of 10 cents per metric ton. As a result of this agreement, refunds from the U.S. government associated with the historic anti-dumping duties are shared among the various Mexican and American cement industry participants. We received approximately U.S.$111 million in refunds under the agreement. We do not expect to receive further refunds.

As of March 31, 2009, there was no accrued liability for dumping duties. All liabilities accrued for past anti-dumping duties have been eliminated.

Anti-Dumping in Taiwan. Five Taiwanese cement producers — Asia Cement Corporation, Taiwan Cement Corporation, Lucky Cement Corporation, Hsing Ta Cement Corporation and China Rebar — filed an anti-dumping case involving imported gray Portland cement and clinker from the Philippines and Korea before the Tariff Commission under the Ministry of Finance (MOF) of Taiwan.

In July 2001, the MOF informed the petitioners and the respondent producers in exporting countries that a formal investigation had been initiated. Among the respondents in the petition were APO, Rizal and Solid, our indirect subsidiaries. In July 2002, the MOF notified the respondent producers that a dumping duty would be imposed on Portland cement and clinker imports from the Philippines and South Korea beginning on July 19, 2002. The duty rate imposed on imports from APO, Rizal and Solid was fixed at 42%.

In September 2002, APO, Rizal and Solid filed before the Taipei High Administrative Court an appeal in opposition to the anti-dumping duty imposed by the MOF. In August 2004, we received a copy of the decision of the Taipei Administrative High Court, which was adverse to our appeal. The decision has since become final. This anti-dumping duty is subject to review by the government after five years following its imposition. If following that review the government determines that the circumstances giving rise to the anti-dumping order have changed and that the elimination of the duty would not harm the domestic industry, the government may decide to revoke the anti-dumping duty. Based on a petition filed by Asian Cement Corporation, Taiwan Cement Corporation, Lucky Cement Corporation, and Hsing-Ta Cement Co. Ltd. in April 2007, the MOF decided to institute the investigation on whether to continue to impose the antidumping duty on Type I and Type II Portland Cement and clinker upon the expiration of the five-year period of the duty imposition and issued a public announcement on May 2, 2007, requesting interested parties to present their opinions. In response, APO and Solid submitted a written statement objecting to the continuance of the anti-dumping duty order. On October 22, 2007, the MOF notified interested parties that because of the need for further investigation, the investigation period was extended to March 1, 2008.

On February 26, 2008, the MOF announced that it would instruct the Ministry of Economic Affairs (MOEA) to continue its investigation to determine whether or not the domestic industry would be damaged if the government were to revoke the anti-dumping duty. On April 10, 2008, the International Trade Commission (ITC) of the MOEA made a determination that the revocation of the anti-dumping duty would not likely lead to continuation or recurrence of injury to the domestic industry. As required by the Implementation Regulation on the Imposition of Countervailing and Antidumping Duties, the MOEA notified the MOF of ITC's determination. We received a letter, dated May 5, 2008, from the MOF, stating that the anti-dumping duty imposed on gray portland cement and clinker imports from the Philippines and South Korea would be terminated starting May 5, 2008. Since May 2008, no more anti-dumping duties have been imposed.

Tax Matters

Mexico. On April 3, 2007, the Mexican tax authority (*Secretaría de Hacienda y Crédito Público*) issued a decree providing for a tax amnesty program, which allowed for the settlement of previously issued tax assessments, and which we could apply to tax assessments of which we were notified in May 2006. We decided to take advantage of this program, and therefore we do not currently have material tax assessments subject to litigation in Mexico.

Pursuant to amendments to the Mexican income tax law (*Ley del Impuesto sobre la Renta*), which became effective on January 1, 2005, Mexican companies with direct or indirect investments in entities incorporated in foreign countries whose income tax liability in those countries is less than 75% of the income tax that would be payable in Mexico will be required to pay taxes in Mexico on passive income, such as dividends, royalties, interest, capital gains and rental fees obtained by such foreign entities, except for income derived from entrepreneurial activities in such countries, which is not subject to tax under these amendments. We filed two motions in the Mexican federal courts challenging the constitutionality of the amendments. On June 29, 2006, we obtained a favorable ruling from the Mexican federal court stating that the amendments were unconstitutional. The Mexican tax authority appealed the ruling, and the proceeding reached the Mexican Supreme Court of Justice. On September 9, 2008, the Mexican Supreme Court ruled against our constitutional challenge of the controlled foreign corporation tax rules in effect in Mexico for tax years 2005 to 2007. Since the Supreme Court's decision does not pertain to an

amount of taxes due or other tax obligations, we will self-assess any taxes due through the submission of amended tax returns. We have not yet determined the amount of tax or the periods affected, but the amount is likely to be material. If the Mexican tax authorities do not agree with our self-assessment of the taxes due for past periods, they may assess additional amounts of taxes past due, which may be material and may impact our cash flows.

The Mexican Congress approved several amendments to the Mexican Asset Tax Law (*Ley del Impuesto al Activo*) that came into effect on January 1, 2007. As a result of such amendments, all Mexican corporations, including us, were no longer allowed to deduct liabilities from calculation of the asset tax. We believe that the Asset Tax Law, as amended, is against the Mexican constitution. We have challenged the Asset Tax Law through appropriate judicial action (*juicio de amparo*).

The asset tax was imposed at a rate of 1.25% on the value of most of the assets of a Mexican corporation. The asset tax was "complementary" to the corporate income tax (*impuesto sobre la renta*) and, therefore, was payable only to the extent it exceeded payable income tax.

In 2008, the Asset Tax Law was abolished and a new federal tax applicable to all Mexican corporations was enacted, known as the *Impuesto Empresarial a Tasa Única* (Single Rate Corporate Tax), or IETU, which is a form of alternative minimum tax.

Philippines. The Philippine Bureau of Internal Revenue (BIR) had assessed APO, Solid, IQAC, ALQC and CSPI, our operating indirect subsidiaries in the Philippines, for deficiency taxes covering taxable years 1998 to 2005 amounting to a total of approximately 1,994 million Philippine Pesos (approximately U.S.$41.25 million as of March 31, 2009, based on an exchange rate of Philippine Pesos 48.33 to U.S.$1.00, which was the Philippine Peso/Dollar exchange rate on March 31, 2009, as published by the Bangko Sentral ng Pilipinas, the Central Bank of the Republic of the Philippines).

The majority of the tax assessments pending with the Court of Tax Appeals (CTA) as of March 31, 2009 result primarily from the disallowance of APO's income tax holiday incentives (ITH case) for taxable years 1999 to 2001 (approximately Philippine Pesos 1,200 million, or U.S.$24.82 million, as of March 31, 2009, based on an exchange rate of Philippine Pesos 47.52 to U.S.$1.00). However, on February 12, 2009, APO received a decision from the Court of Tax Appeals considering the deficiency income tax assessments for taxable years 1999 to 2001, mentioned above, as cancelled and set aside solely in view of APO's availment of the Tax Amnesty under RA 9480. The CTA considered the ITH case as "closed and terminated." As of the end of March 2009 the BIR, did not file an appeal to the Supreme Court, thus rendering the subject decision of the CTA in the ITH case as final and executory. APO is no longer liable for the income tax assessment and is not required to make further payments in this case.

As to the remaining tax cases pending with the CTA, the CTA has given an order in open court requiring counsel for APO and Solid to file a Motion to Cancel Assessment on the basis of APO's and Solid's availment of the benefits of a tax amnesty for taxable year 2005 and prior years. APO and Solid submitted all necessary documents and fully paid the amnesty tax according to law and its implementing rules and regulations. The availment of the amnesty resulted in immunity for our Philippine subsidiaries from their alleged tax liabilities and penalties (civil, criminal, or administrative) arising from their alleged failure to pay the tax for 2005 and prior years. This includes APO's alleged income tax liability for 1999, 2000 and 2001, which continues to be pending with the CTA. The amnesty program, however, does not cover withholding tax liabilities. With this development, we expect the dismissal of all tax assessment cases against APO and Solid which are pending with the CTA following the CTA resolution in the APO ITH case.

Polish Antitrust Investigation. During the period from May 31, 2006 to June 2, 2006, officers of the Polish Competition and Consumer Protection Office, or the Protection Office, assisted by police officers, conducted a search in the Warsaw office of CEMEX Polska, one of our indirect subsidiaries in Poland, and in offices of other cement producers in Poland. The search took place as a part of the exploratory investigation that the head of the Polish Competition and Consumer Protection Office started on April 26, 2006. On January 2, 2007, CEMEX Polska received a notification from the Protection Office informing about the formal initiation of an antitrust proceeding against all cement producers in Poland, including CEMEX Polska and another of our indirect subsidiaries in Poland. In the notification it was assumed that there was an agreement between all cement producers in Poland regarding prices and other sales conditions of cement, an agreed division of the market with respect to the sale and production of cement, and the exchange of confidential information, all of which limited competition in the Polish market with

respect to the production and sale of cement. On January 22, 2007, CEMEX Polska filed its response to the notification, denying that it committed the practices listed by the Protection Office in the notification. In its response, CEMEX Polska also included various formal comments and objections gathered during the proceeding, as well as facts supporting its position and intended to prove that its activities were in line with competition law. On April 29, 2009, the Protection Office notified CEMEX Polska of its decision to extend the antitrust proceeding until June 20, 2009, due to the complexity of the case. As of the date of filing of this annual report, CEMEX has no information regarding further developments on this legal assessment.

We believe, at this stage, there are no justified factual or legal grounds for fines to be imposed on CEMEX Polska.

Antitrust Investigation in the U.K. and Germany. Between November 4 and 6, 2008, officers of the European Commission, assisted by local officials, conducted an unannounced inspection at our offices in the United Kingdom and Germany. The European Commission alleges that we may have participated in anti-competitive agreements and/or concerted practices in breach of Article 81 of the EC Treaty and/or Article 53 of the EEA Agreement and abusive conduct in breach of Article 82 of the EC Treaty and/or Article 54 of the EEA Agreement. The allegations extend to several markets worldwide, including in particular the European Economic Area. If those allegations are substantiated, significant penalties may be imposed on our subsidiaries operating in such markets. We fully cooperated and will continue to cooperate with the European Commission officials in connection with the inspection.

Antitrust Investigations in Mexico. In January and March 2009, we were notified of two findings of presumptive responsibility against CEMEX issued by the Mexican competition authority (*Comisión Federal de Competencia*), alleging certain violations of Mexican antitrust laws. We believe these findings have several procedural errors and are unfounded on the merits. We filed our responses to these findings on February 27, 2009 and May 19, 2009, and expect procedures to continue for several months before resolution.

Expropriation of CEMEX Venezuela and ICSID Arbitration. On August 18, 2008, Venezuelan officials took physical control of the facilities of CEMEX Venezuela, following the issuance of several governmental decrees purporting to authorize the take over by Venezuela of all of CEMEX Venezuela's assets, shares and business. At around the same time, the Venezuelan government removed the board of Cemex Venezuela and replaced its senior management. Venezuela has paid no compensation to CEMEX Venezuela's shareholders for such action. On October 16, 2008, CEMEX Caracas Investments B.V. and CEMEX Caracas Investments II B.V. (collectively, "CEMEX Caracas"), which held a 75.7% interest in CEMEX Venezuela, filed a request for arbitration against Venezuela before the International Centre for Settlement of Investment Disputes ("ICSID") seeking relief for the expropriation of their interest in CEMEX Venezuela. In the ICSID proceedings against Venezuela, CEMEX Caracas is seeking: (a) a declaration that Venezuela is in breach of its obligations under a bilateral investment treaty between the Netherlands and Venezuela, the Venezuelan Foreign Investment Law and customary international law; (b) an order that Venezuela restore to CEMEX Caracas their interest in, and control over, CEMEX Venezuela; (c) in the alternative, an order that Venezuela pay CEMEX Caracas full compensation with respect to its breaches of the Treaty, the Venezuelan Foreign Investment Law and customary international law, in an amount to be determined in the arbitration, together with interest at a rate not less than LIBOR, compounded until the time of payment; and (d) an order that Venezuela pay all costs of and associated with the arbitration, including CEMEX Caracas's legal fees, experts' fees, administrative fees and the fees and expenses of the arbitral tribunal. The ICSID arbitral tribunal is in the process of being constituted. We are unable at this preliminary stage to estimate the likely range of potential recovery or to determine what position Venezuela will take in these proceedings, the nature of the award that may be issued by the Tribunal or the likely extent of collection of any possible monetary award issued to CEMEX Caracas.

Other Legal Proceedings

On August 5, 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia, claiming that it was liable along with the other members of the *Asociación Colombiana de Productores de Concreto*, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system of Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads in a

manner which guarantees their service during the 20-year period for which they were originally designed, and estimate that the cost of such repair will be approximately U.S.$45 million. The lawsuit was filed within the context of a criminal investigation of two ASOCRETO officers and other individuals, alleging that the ready-mix concrete producers were liable for damages if the ASOCRETO officers were criminally responsible. The court completed the evidentiary stage, and on August 17, 2006 dismissed the charges against the members of ASOCRETO. The other defendants (one ex-director of the Distrital Institute of Development, the legal representative of the constructor and the legal representative of the contract auditor) were formally accused. The decision was appealed, and on December 11, 2006, the decision was reversed and the two ASOCRETO officers were formally accused as participants (determiners) in the execution of a state contract without fulfilling all legal requirements thereof. The first public hearing took place on November 20, 2007. In this hearing, the judge dismissed an annulment petition filed by the ASOCRETO officers. The petition was based on the fact that the officers were formally accused of a different crime from the one for which they were being investigated. This decision was appealed, but the decision was confirmed by the Superior Court of Bogotá. On January 21, 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called El Tujuelo, as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required within a period of 10 days to deposit with the court in cash CoP$337,800 million (approximately U.S.$132.7 million as of March 31, 2009, based on an exchange rate of CoP2.544 to U.S.$1.00, which was the Colombian Peso/Dollar exchange rate on March 31, 2009, as published by the *Banco de la República de Colombia*, the central bank of Colombia), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. On March 9, 2009, the Superior Court of Bogotá reversed this decision, allowing CEMEX to offer a security in the amount of U.S.$8 million. The measure does not affect the normal activity of the quarry. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.

On August 5, 2005, Cartel Damages Claims, SA, or CDC, filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG and other German cement companies. CDC is seeking €102 million (approximately U.S.$142.6 million) in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002, which entities had assigned their claims to CDC. CDC is a Belgian company established by two lawyers in the aftermath of the German cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office, with the express purpose of purchasing potential damages claims from cement consumers and pursuing those claims against the alleged cartel participants. In January 2006, another entity assigned alleged claims to CDC, and the amount of damages being sought by CDC increased to €113.5 million plus interest (approximately U.S.$158.6 million plus interest). On February 21, 2007, the District Court of decided to allow this lawsuit to proceed without going into the merits of this case by issuing an interlocutory judgment. All defendants appealed, but the appeal was dismissed on May 14, 2008. The lawsuit will proceed at the level of court of first instance. As of March 31, 2009, only one defendant had decided to file a complaint before the Federal High Court. In the meantime, CDC had acquired new assigners and announced an increase in the claim to €131 million (approximately U.S.$183.1 million). As of March 31, 2009, we had accrued liabilities regarding this matter for a total amount of approximately €20 million (approximately U.S.$27.9 million).

After an extended consultation period, in April 2006, the cities of Kaštela and Solin in Croatia published their respective Master (physical) Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to Dalmacijacement, our subsidiary in Croatia, by the Government of Croatia in September 2005. During the consultation period, Dalmacijacement submitted comments and suggestions to the Master Plans, but these were not taken into account or incorporated into the Master Plan by Kaštela and Solin. Most of these comments and suggestions were intended to protect and preserve the rights of Dalmacijacement´s mining concession. Immediately after publication of the Master Plans, Dalmacijacement filed a series of lawsuits and legal actions before the local and federal courts to protect its acquired rights under the mining concessions. Among the legal actions taken and filed by Dalmacijacement were as follows: (i) on May 17, 2006, a constitutional appeal before the constitutional court in Zagreb, seeking a declaration by the court concerning Dalmacijacement's constitutional claim for decrease and obstruction of rights earned by investment, and seeking prohibition of implementation of the Master Plans; this appeal is currently under review by the Constitutional Court

in Croatia, and we cannot predict when it will be resolved; (ii) on May 17, 2006, a possessory action against the cities of Kaštela and Solin seeking the enactment of interim measures prohibiting implementation of the Master Plans and including a request to implead the Republic of Croatia into the proceeding on our side; this possessory action has been definitively dismissed; and (iii) on May 17, 2006, an administrative proceeding before the State Lawyer, seeking a declaration from the Government of Croatia confirming that Dalmacijacement acquired rights under the mining concessions. Dalmacijacement received the State Lawyer's opinion which confirms the Dalmacijacement's acquired rights according to the previous decisions ("old concession"). The Administrative Court in Croatia has ruled in favor of Dalmacijacement, validating the legality of the mining concession granted to Dalmacijacement by the Government of Croatia, in September 2005. We are still waiting for an official declarion from the Constitutional Court regarding an open question that Dalmacijacement has formally made as to whether the cities of Solin and Kaštela, within the scope of their Master Plans, can unilaterally change the borders of exploited fields.

On April 21, 2007, the First Instance Court for the Commonwealth of Puerto Rico issued a summons against Hormigonera Mayagüezana Inc., seeking damages in the amount of U.S.$39 million, after the death of two people in an accident in which a Hormigonera Mayagüezana Inc. concrete mixer truck was involved. This case was handled by the insurance company (AON) since the claim was covered by CEMEX insurance policy. The insurance company settled the case on June 2009 for approximately U.S.$1.05 million, which was covered completely by the insurance policies and not Cemex Puerto Rico. A final ruling adjudicating the controversy is still pending.

In November 2008, AMEC/Zachry, the general contractor for the Brooksville South expansion project in Florida, filed a lawsuit against CEMEX Construction Materials Florida, LLC, alleging delay damages, seeking an equitable adjustment to the contract and payment of change orders. In its claim, AMEC/Zachry is seeking U.S.$60 million as compensation. CEMEX Construction Materials Florida, LLC filed a counterclaim against AMEC. In February 2009, AMEC/Zachry filed an amended complaint asserting a claim by AMEC E&C Services, Inc. against CEMEX Materials, LLC as the guarantor of the Design/Build contract. CEMEX answered the suit, denying any breach of contract and asserting affirmative defenses and counterclaims against AMEC/Zachry for breach of contract. CEMEX has also brought certain third-party claims against AMEC, plc and FLSmidth. CEMEX has brought a claim against AMEC, plc for breach of contract, and has brought claims for breach of contract, negligent misrepresentation, and various indemnity claims against FLSmidth. In March 2009, FLSmidth filed a motion to dismiss CEMEX's third-party complaint. In May 2009, AMEC/Zachry filed a Motion to Leave to file a Second Amended Complaint requesting that the Court allow it to join FLSmidth as a co-defendant in the lawsuit and assert claims for negligence and negligent misrepresentation directly against FLSmidth. CEMEX also filed a Motion for Leave requesting that the Court allow it to file a First Amended Complaint asserting (to the extent AMEC/Zachry's motion is granted joining FLSmidth as a co-defendant) cross-claims against FLSmidth, including each claim previously asserted against FLSmidth, but also adding a claim for tortuous interference, or, if AMEC/Zachry's Motion for Leave is denied, allowing CEMEX to add its claim for tortuous interference against FLSmidth in its capacity as a third-party defendant. Both Motions for Leave are pending with the Court. At this preliminary stage of the proceeding, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Construction Materials Florida, LLC or CEMEX Materials, LLC.

On July 30, 2008, the Panamanian *Autoridad de Aeronáutica Civil* denied a request by Cemento Bayano, S.A. to erect structures above the permitted imaginary line applicable to the surroundings of the *Calzada Larga* Airport. This imaginary line is set according to applicable legal regulations and reaches the construction area of the cement plant's second line. According to design plans, ten of the structures to be constructed for this new line pass the permitted height. Cemento Bayano has formally requested the abovementioned authority to reconsider its denial. On October 14, 2008, The Panamanian *Autoridad de Aeronáutica Civil* granted a permission for constructing the tallest building of the second line, under the following conditions: (a) Cemento Bayano, S.A. shall assume any liability arising out of any incident or accident caused by the construction of such building; and (b) there will be no further permissions for additional structures. Cemento Bayano, S.A. filed an appeal with respect to the second condition and has submitted a request for permission in respect to the rest of the structures. On March 13, 2009, the *Autoridad de Aeronáutica Civil* issued a ruling stating that (a) should an accident occur in the perimeter of the *Calzada Larga* Airport, an investigation shall be conducted in order to determine the cause and further responsibility; and (b) there will be no further permissions for additional structures of the same height as the tallest structure already granted. Therefore, additional permits may be obtained as long as the structures are lower than the tallest building, on a case-by-case analysis to be conducted by the authority. We are still waiting for a ruling in respect of the additional ten structures.

On October 4, 2007, all Egyptian cement producers (including CEMEX) were referred to the public prosecutor for an alleged agreement on price fixing. The country manager and director of sales of CEMEX Egypt were both named as defendants. The case was referred to criminal court on February 13, 2008. Hearings on this matter have taken place, during which witnesses were heard and defenses were presented. The final court hearing was held on August 25, 2008. At this hearing, the court announced its decision imposing the maximum penalty of 10 Million Egyptian Pounds (approximately U.S.$1.8 million) on each entity accused. CEMEX Egypt is required to pay 20 Million Egyptian Pounds (approximately U.S.$3.6 million), since two executives were accused. An appeal has been filed by all cement companies to challenge the judgment of the First Instance Court. The last appeal hearing was held on December 31, 2008. The court of appeals decided to support the accusation and confirm the penalty. We decided not to proceed with a further appeal and pay the fine.

On August 12, 2007, the Australian Takeovers Panel published a declaration of unacceptable circumstances, namely, that CEMEX's May 7, 2007 announcement that it would allow Rinker shareholders to retain the final dividend of $0.25 per Rinker share constituted a departure from CEMEX's announcement on April 10, 2007 that its offer of U.S.$15.85 per share was its "best and final offer." On September 27, 2007, the Panel ordered CEMEX to pay compensation of $0.25 per share to Rinker shareholders for the net number of Rinker shares they disposed of a beneficial interest during the period from April 10, 2007 to May 7, 2007. CEMEX believes that the market was fully informed by its announcements on April 10, 2007, and notes that the Takeovers Panel has made no finding that CEMEX breached any law. On September 27, 2007, the Review Panel made an order staying the operation of the orders until further notice pending CEMEX's application for judicial review of the Panel's decision. CEMEX applied to the Federal Court of Australia for such a judicial review. That application was dismissed on October 23, 2008. CEMEX appealed that decision to the Full Court of the Federal Court of Australia, which heard the appeal in May 2009 but has not yet rendered a judgment. CEMEX is not able to predict with certainty the amount of its ultimate liability if the Panel's orders become effective. However, if the orders do become effective, CEMEX will be required to deposit A$15 million (approximately U.S.$12 million based on the accounting A$/Dollar exchange rate in effect on May 29, 2009 of A$1.2734 to U.S.$1.00) in a special purpose account from which qualifying claims will be paid. CEMEX currently has bank guarantees in place for that required deposit.

The Texas General Land Office is alleging that CEMEX failed to pay approximately $550 million in royalties related to mining by CEMEX and its predecessors since the 1940s on lands that, when transferred originally by the State of Texas, contained reservation of mineral rights. CEMEX is analyzing this claim and intends to defend it vigorously.

As of the date of this annual report, we are involved in various legal proceedings involving product warranty claims, environmental claims, indemnification claims relating to acquisitions and similar types of claims brought against us that have arisen in the ordinary course of business. We believe we have made adequate provisions to cover both current and contemplated general and specific litigation risks, and we believe these matters will be resolved without any significant effect on our operations, financial position or results of operations.

Item 4A - Unresolved Staff Comments

Not applicable.

Item 5 - Operating and Financial Review and Prospects

Cautionary Statement Regarding Forward Looking Statements

This annual report contains forward-looking statements that reflect our current expectations and projections about future events based on our knowledge of present facts and circumstances and assumptions about future events. In this annual report, the words "expects," "believes," "anticipates," "estimates," "intends," "plans," "probable" and variations of such words and similar expressions are intended to identify forward-looking statements. Such

statements necessarily involve risks and uncertainties that could cause actual results to differ materially from those anticipated. Some of the risks, uncertainties and other important factors that could cause results to differ, or that otherwise could impact us or our subsidiaries, include:

- the cyclical activity of the construction sector;
- competition;
- general political, economic and business conditions;
- weather and climatic conditions;
- national disasters and other unforeseen events; and
- the other risks and uncertainties described under "Item 3 — Key Information — Risk Factors" and elsewhere in this annual report.

Readers are urged to read this entire annual report and carefully consider the risks, uncertainties and other factors that affect our business. The information contained in this annual report is subject to change without notice, and we are not obligated to publicly update or revise forward-looking statements. Readers should review future reports filed by us with the U.S. Securities and Exchange Commission.

This annual report also includes statistical data regarding the production, distribution, marketing and sale of cement, ready-mix concrete, clinker and aggregates. We generated some of this data internally, and some was obtained from independent industry publications and reports that we believe to be reliable sources. We have not independently verified this data nor sought the consent of any organizations to refer to their reports in this annual report.

Overview

The following discussion should be read in conjunction with our consolidated financial statements included elsewhere in this annual report. Our financial statements have been prepared in accordance with MFRS, which differ in significant respects from U.S. GAAP. See note 25 to our consolidated financial statements, included elsewhere in this annual report, for a description of the principal differences between MFRS and U.S. GAAP as they relate to us.

Mexico experienced annual inflation rates of 4.1% in 2006, 4.0% in 2007 and 6.4% in 2008. Until December 31, 2007, MFRS required that our consolidated financial statements during the periods presented recognize the effects of inflation. Beginning January 1, 2008, however, under MFRS, inflation accounting is applied only in high inflation environments. See note 2A to our consolidated financial statements.

The percentage changes in cement sales volumes described in this annual report for our operations in a particular country or region include the number of tons of cement and/or the number of cubic meters of ready-mix concrete sold to our operations in other countries and regions. Likewise, unless otherwise indicated, the net sales financial information presented in this annual report for our operations in each country or region includes the Mexican Peso amount of sales derived from sales of cement and ready-mix concrete to our operations in other countries and regions, which have been eliminated in the preparation of our consolidated financial statements included elsewhere in this annual report.

The following table sets forth selected consolidated financial information as of and for each of the three years ended December 31, 2006, 2007 and 2008 by principal geographic segment expressed as an approximate percentage of our total consolidated group. Through the Rinker acquisition, we acquired new operations in the United States, which have had a significant impact on our operations in that segment, and we acquired operations in Australia, in which segment we did not have operations prior to the Rinker acquisition. The financial information as

of and for the year ended December 31, 2007 in the table below includes the consolidation of Rinker's operations for the six-month period ended December 31, 2007. The financial information as of and for the year ended December 31, 2008 in the table below includes the consolidation of Rinker's operations for the entire year ended December 31, 2008. We operate in countries and regions with economies in different stages of development and structural reform, with different levels of fluctuation in exchange rates, inflation and interest rates. These economic factors may affect our results of operations and financial condition depending upon the depreciation or appreciation of the exchange rate of each country and region in which we operate compared to the Mexican Peso and the rate of inflation of each of these countries and regions. Beginning in 2008, MFRS B-10 eliminates the restatement amounts of financial statements for the period into constant values as well as the comparative financial statements for prior periods as of the date of the most recent balance sheet. Beginning in 2008, the amounts of the statement of income, statement of cash flow and statement of changes in stockholders' equity are presented in nominal values; meanwhile amounts of financial statements for prior years are presented in constant pesos as of December 31, 2007, the last date in which inflationary accounting was applied. This index was calculated based upon the inflation rates of the countries in which we operate and the changes in the exchange rates of each of these countries, weighted according to the proportion that our assets in each country represent of our total assets. The rates of inflation used for the restatement of our financial information to constant Mexican Pesos, as of December 31, 2007, may affect the comparability of our results of operations and consolidated financial position from period to period.

	% Mexico	% United States	% Spain	% United Kingdom	% Rest of Europe	% South America, Central America and the Caribbean	% Africa and the Middle East	% Australia and Asia	% Others	Combined	Elimi-nations	Consoli-dated
	(in millions of Mexican Pesos, except percentages)											
Net Sales For the Period Ended(1):												
December 31, 2006	18%	21%	9%	10%	20%	8%	4%	2%	8%	234,155	(20,388)	213,767
December 31, 2007	16%	22%	9%	9%	19%	9%	3%	5%	8%	253,937	(17,268)	236,669
December 31, 2008	17%	21%	7%	8%	20%	9%	5%	9%	4%	253,089	(9,888)	243,201
Operating Income For the Period Ended(2):												
December 31, 2006	38%	29%	16%	1%	6%	12%	5%	2%	(9)%	34,505	—	34,505
December 31, 2007	39%	18%	19%	(1)%	10%	18%	5%	6%	(14)%	32,448	—	32,448
December 31, 2008	51%	(1)%	14%	(3)%	14%	21%	9%	11%	(16)%	27,884	—	27,884
Total Assets at(2):												
December 31, 2006	18%	23%	10%	8%	13%	10%	3%	6%	9%	351,083	—	351,083
December 31, 2007	11%	46%	8%	5%	9%	7%	2%	7%	5%	542,314	—	542,314
December 31, 2008	11%	45%	10%	6%	10%	5%	3%	7%	3%	623,622	—	623,622

(1) Percentages by reporting segment are determined before eliminations resulting from consolidation.

(2) Percentages by reporting segment are determined after eliminations resulting from consolidation.

Critical Accounting Policies

We have identified below the accounting policies we have applied under MFRS that are critical to understanding our overall financial reporting.

Income Taxes

Our operations are subject to taxation in many different jurisdictions throughout the world. Under MFRS, we recognize deferred tax assets and liabilities using a balance sheet methodology, which requires a determination of the temporary differences between the financial statements carrying amounts and the tax basis of assets and liabilities. Our worldwide tax position is highly complex and subject to numerous laws that require interpretation and application and that are not consistent among the countries in which we operate. Significant judgment is required to appropriately assess the amounts of tax assets and liabilities. We record tax assets when we believe that the recoverability of the asset is determined to be more likely than not in accordance with established accounting principles. If this determination cannot be made, a valuation allowance is established to reduce the carrying value of the asset.

Our overall strategy is to structure our worldwide operations to minimize or defer the payment of income taxes on a consolidated basis. Many of the activities we undertake in pursuing this tax reduction strategy are highly complex and involve interpretations of tax laws and regulations in multiple jurisdictions and are subject to review by the relevant taxing authorities. It is possible that the taxing authorities could challenge our application of these regulations to our operations and transactions. The taxing authorities have in the past challenged interpretations that we have made and have assessed additional taxes. Although we have from time to time paid some of these additional assessments, in general we believe that these assessments have not been material and that we have been successful in sustaining our positions. No assurance can be given, however, that we will continue to be as successful as we have been in the past or that pending appeals of current tax assessments will be judged in our favor.

Recognition of the effects of inflation

Until December 31, 2007, under MFRS, the financial statements of each subsidiary were restated to reflect the loss of purchasing power (inflation) of its functional currency. Newly issued MFRS B-10, effective beginning January 1, 2008, establishes significant changes to inflationary accounting in Mexico. The most significant changes are:

- Inflationary accounting will be applied only in a high-inflation environment, defined by MFRS B-10 as existing when the cumulative inflation for the preceding three years equals or exceeds 26%. Until December 31, 2007, inflationary accounting was applied to all of our subsidiaries regardless of the inflation level of their respective country. Beginning in 2008, only the financial statements of those subsidiaries whose functional currency corresponds to a country under high inflation will be restated to take account of inflation.
- The new standard eliminates the alternative to restate inventories using specific cost indexes, as well as the rule to restate fixed assets of foreign origin using the factor that considers the inflation of the country of origin of the asset and the variation in the foreign exchange rate between the currency of the country of origin and the country holding the asset. MFRS B-10 establishes the use of the factors derived from the general price indexes of the country holding the assets as the sole alternative for restatement.
- MFRS B-10 eliminates the requirement to restate the amounts of the income statement for the period (constant peso amounts), as well as the comparative financial statements for prior periods, into constant peso amounts as of the most recent balance sheet date. Beginning in 2008, the income statement is presented in nominal values, and, as long as the cumulative inflation for the preceding three years in Mexico is below 26%, the financial statements for periods prior to 2008 will be presented in constant pesos as of December 31, 2007, the last date when inflationary accounting was applied generally.
- When moving from a high-inflation to a low-inflation environment, MFRS B-10 provides that the restatement adjustments as of the date of discontinuing the inflationary accounting should prevail as part of the carrying amounts. When moving from a low-inflation to a high-inflation environment, the initial restatement factor for properties, machinery and equipment, as well as for intangible assets, should consider the cumulative inflation since the last time inflationary accounting was discontinued. As a result of the adoption of MFRS B-10, the accumulated result for holding non-monetary assets at December 31, 2007, included within “Deficit in equity restatement” (see note 2P to the financial statements included elsewhere in this annual report), was reclassified to “Retained earnings”. As of December 31, 2007, most of our subsidiaries operated in low-inflation environments; therefore, restatement of their historical cost financial statements to take account of inflation was suspended starting January 1, 2008.

Under inflationary accounting, until December 31, 2007, the inflation effects arising from holding monetary assets and liabilities were reflected in the income statements as monetary position result. Inventories, fixed assets and deferred charges, with the exception of fixed assets of foreign origin and the equity accounts, were restated to account for inflation using the consumer price index applicable in each country. Fixed assets of foreign origin were restated using the inflation index of the assets' origin country and the variation in the foreign exchange rate between the country of origin currency and the functional currency. The result was reflected as an increase or decrease in the carrying value of each item, and was presented in consolidated stockholders' equity in the line item "Effects from Holding Non-Monetary Assets." Income statement accounts were also restated for inflation into constant Mexican Pesos as of the reporting date.

Foreign currency translation

As mentioned above, until December 31, 2007, the financial statements of consolidated foreign subsidiaries were restated for inflation in their functional currency based on the subsidiary country's inflation rate. Subsequently, the restated financial statements were translated into Mexican Pesos using the foreign exchange rate at the end of the corresponding reporting period for balance sheet and income statement accounts.

In connection with the changes in inflationary accounting under MFRS, concurrent with the use of nominal amounts during low-inflation periods, beginning January 1, 2008, the translation of foreign currency financial statements into Mexican pesos is made using the foreign exchange rate at the end of the corresponding reporting period for balance sheet and the exchange rates at the end of each month for the income statement accounts. For subsidiaries operating in high-inflation environments, the financial statements are first restated into constant amounts in their functional currency, and then translated into Mexican pesos using the exchange rate at the reporting date for balance sheet and income statement accounts.

Derivative financial instruments

In compliance with the guidelines established by our risk management committee, we use derivative financial instruments such as interest rate and currency swaps, currency and stock forward contracts, and other instruments, in order to change the risk profile associated with changes in interest rates and foreign exchange rates of debt agreements, as a vehicle to reduce financing costs, as an alternative source of financing, and as hedges of: (i) highly probable forecasted transactions, (ii) our net assets in foreign subsidiaries and (iii) future exercises of options under our executive stock option programs. These instruments have been negotiated with institutions with significant financial capacity; therefore, we consider the risk of non-compliance with the obligations agreed to by such counterparties to be minimal.

Derivative financial instruments are recognized as assets or liabilities in the balance sheet at their estimated fair value, and the changes in such fair values are recognized in the income statement for the period in which they occur, except for changes in the fair value of derivative instruments that are designated and effective as hedges of the variability in the cash flows associated with existing assets or liabilities and/or forecasted transactions. Some of our instruments have been designated as accounting hedges of debt or equity instruments (see note 2L to our consolidated financial statements included elsewhere in this annual report).

Interest accruals generated by interest rate swaps and cross-currency swaps are recognized as financial expense, adjusting the effective interest rate of the related debt. Interest accruals from other hedging derivative instruments are recorded within the same item when the effects of the primary instrument subject to the related hedging transactions are recognized.

Pursuant to their recognition at fair value under MFRS, our balance sheets and income statements are subject to volatility arising from variations in interest rates, exchange rates, share prices and other conditions established in our derivative instruments. The estimated fair value under MFRS represents the amount at which a financial asset could be bought or sold, or a financial liability could be extinguished at the reporting date, between willing parties in an arm's length transaction. Occasionally, there is a reference market that provides the estimated fair value; in the absence of a market, such value is determined by the net present value of projected cash flows or through mathematical valuation models. The estimated fair values of derivative instruments determined by us and

used by us for recognition and disclosure purposes in the financial statements and their notes are supported by the confirmations of these values received from the counterparties to these financial instruments; nonetheless, significant judgment is required to account appropriately for the effects of derivative financial instruments in the financial statements. Beginning in 2008, the definition of fair value under U.S. GAAP was redefined by SFAS 157, *Fair Value Measurements*, as an "Exit Value", which created a new difference between MFRS and U.S. GAAP. An "Exit Value" is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. See note 25 to our consolidated financial statements included elsewhere in this annual report.

The estimated fair values of derivative financial instruments fluctuate over time, and are based on estimated settlement costs or quoted market prices. These values should be viewed in relation to the fair values of the underlying instruments or transactions, and as part of our overall exposure to fluctuations in foreign exchange rates, interest rates and prices of shares. The notional amounts of derivative instruments do not necessarily represent amounts exchanged by the parties and, therefore, are not a direct measure of our exposure through our use of derivatives. The amounts exchanged are determined on the basis of the notional amounts and other variables included in the derivative instruments.

Impairment of long-lived assets

Our balance sheet reflects significant amounts of long-lived assets (mainly fixed assets and goodwill) associated with our operations throughout the world. Many of these amounts have resulted from past acquisitions, which have required us to reflect these assets at their fair market values at the dates of acquisition. According to their characteristics and the specific accounting rules related to them, we assess the recoverability of our long-lived assets at least once a year, as is the case for goodwill and other intangible assets of indefinite life, or whenever events or circumstances arise that we believe trigger a requirement to review such carrying values, as is the case with property, machinery and equipment and intangible assets of definite life.

Goodwill is evaluated for impairment by determining the value in use of the reporting units, which consists of the discounted amount of estimated future cash flows to be generated by such reporting units to which goodwill relates. A reporting unit refers to a group of one or more cash generating units. Each reporting unit, for purposes of the impairment evaluation, consists of all operations in each country. An impairment loss is recognized if such discounted cash flows are lower than the net book value of the reporting unit. In applying the value in use method, we determine the discounted amount of estimated future cash flows over a period of five years, unless a longer period is justified in a specific country considering its economic cycle and the situation of the industry.

For the years ended December 31, 2006, 2007 and 2008, the geographic segments we reported in note 17 to our consolidated financial statements included elsewhere in this annual report, each integrated by multiple cash generating units, also represent our reporting units for purposes of testing goodwill for impairment. Based on our analysis, we concluded that the operating components that integrate the reported segments have similar economic characteristics, by considering: (a) the reported segments are the level used by us to organize and evaluate our activities in the internal information system, (b) the homogenous nature of the items produced and traded in each operative component, which are all used by the construction industry, (c) the vertical integration in the value chain of the products comprising each component, (d) the type of clients, which are substantially similar in all components, (e) the operative integration among operating components, evidenced by the adoption of shared service centers, and (f) the compensation system of any of our country operations is based on the consolidated results of the geographic segment and not on the particular results of the components.

Significant judgment is required to appropriately assess the value in use of our reporting units. Impairment evaluations are significantly sensitive to, among other factors, the estimation of future prices of our products, the development of operating expenses, local and international economic trends in the construction industry, as well as the long-term growth expectations in the different markets. Likewise, the discount rates and the rates of growth in perpetuity used have an effect on such impairment evaluations. We use specific discount rates for each reporting unit, which consider the weighted average cost of capital of each geographic segment. This determination requires substantial judgment and is highly complex when considering the many countries in which we operate, each of which has its own economic circumstances that have to be monitored. Additionally, we monitor the lives assigned to these long-lived assets for purposes of depreciation and amortization, when applicable. This determination is subjective and is integral to the determination of whether an impairment has occurred.

Based on impairment tests made during the last quarter of 2008 under MFRS in connection with the annual review (see note 10C to our consolidated financial statements), goodwill impairment losses were determined for our reporting units in the United States, Ireland and Thailand for approximately Ps17,476 million (U.S.$1,272 million). Likewise, considering triggering events in the United States during the fourth quarter of 2008, we tested our intangible assets of definite life in that country and determined that the net book value of certain trademarks exceeded their related value in use and recorded impairment losses of approximately Ps1,598 million (U.S.$116 million) (see note 10 to our financial statements included elsewhere in this annual report). In addition, we recognized impairment losses during the fourth quarter in connection with the permanent closing of operating assets for an aggregate amount of approximately Ps1,045 million (U.S.$76 million) (see note 9 to our consolidated financial statements).

Considering differences in the measurement of fair value, including the selection of economic variables and market considerations, as well as the methodology for determining final impairment losses between MFRS and U.S. GAAP, our impairment losses under U.S. GAAP in 2008 amounted to approximately U.S.$4.9 billion, including the impairment losses determined under MFRS, of which, approximately U.S.$4.7 billion refer to impairment of goodwill. Considerable management judgment is necessary to estimate undiscounted and discounted future cash flows under U.S. GAAP. See note 25 to our financial statements included elsewhere in this annual report.

Valuation reserves on accounts receivable and inventories

On a periodic basis, we analyze the recoverability of our accounts receivable and our inventories (supplies, raw materials, work-in-process and finished goods), in order to determine if due to credit risk or other factors in the case of our receivables and due to weather or other conditions in the case of our inventories, some receivables may not be recovered or certain materials in our inventories may not be utilizable in the production process or for sale purposes. If we determine such a situation exists, book values related to the non-recoverable assets are adjusted and charged to the income statement through an increase in the doubtful accounts reserve or the inventory obsolescence reserve, as appropriate. These determinations require substantial management judgment and are highly complex when considering the various countries in which we have operations, each having its own economic circumstances that require continuous monitoring, and our numerous plants, deposits, warehouses and quarries. As a result, final losses from doubtful accounts or inventory obsolescence could differ from our estimated reserves.

Asset retirement obligations

We recognize unavoidable obligations, legal or constructive, to restore operating sites upon retirement of tangible long-lived assets at the end of their useful lives. These obligations represent the net present value of estimated future cash flows to be incurred in the restoration process, and are initially recognized against the related assets' book value. The additional asset is depreciated during its remaining useful life. The increase of the liability, by the passage of time, is charged to the income statement of the period. Adjustments to the obligation for changes in the estimated cash flows or the estimated disbursement period are made against fixed assets, and depreciation is modified prospectively.

Asset retirement obligations are related mainly to future costs of demolition, cleaning and reforestation, so that at the end of their operation, raw materials extraction sites, maritime terminals and other production sites are left in acceptable condition. Significant judgment is required in assessing the estimated cash outflows that will be disbursed upon retirement of the related assets. See notes 2M and 12 to our consolidated financial statements included elsewhere in this annual report.

Transactions in our own stock

From time to time we have entered into various transactions involving our own stock. These transactions have been designed to achieve various financial goals but were primarily executed to give us a means of satisfying future transactions that may require us to deliver significant numbers of shares of our own stock. These transactions are described in detail in the notes to our consolidated financial statements included elsewhere in this annual report. We have viewed these transactions as hedges against future exposure even though they do not meet the definition of hedges under accounting principles. There is significant judgment necessary to properly account for these transactions, as the obligations underlying the related transactions are required to be reflected at market value, with the changes in such value reflected in our income statement. These transactions raise the possibility that we could be required to reflect losses on the transactions in our own shares without having a converse reflection of gains on the transactions under which we would deliver such shares to others. See notes 2U, 16 and 19C to our consolidated financial statements included elsewhere in this annual report.

Results of Operations

Consolidation of Our Results of Operations

Our consolidated financial statements, included elsewhere in this annual report, include those subsidiaries in which we hold a majority interest or which we otherwise control. The financial statements of joint ventures, which are those entities in which we and third-party investors have agreed to exercise joint control, are consolidated through the proportional integration method considering our interest in the results of operations, assets and liabilities of such entities. Full consolidation or the equity method, as applicable, is applied for those joint ventures in which one of the venture partners controls the entity's administrative, financial and operating policies.

Investments in associates are accounted for by the equity method, when CEMEX holds between 20% and 50% and has significant influence unless it is proven that CEMEX has significant influence with a lower percentage. Under the equity method, after acquisition, the investment's original cost is adjusted for the proportional interest of the holding company in the associate's equity and earnings, considering the effects of inflation.

All significant intercompany balances and transactions have been eliminated in consolidation.

For the periods ended December 31, 2006, 2007, and 2008, our consolidated results reflect the following transactions:

- On July 31, 2008, we agreed to sell our operations in Austria (consisting of 26 aggregates and 41 ready-mix concrete plants) and Hungary (consisting of 6 aggregates, 29 ready-mix concrete and 4 paving stone plants) to Strabag SE, one of Europe's leading construction and building materials groups, for €310 million (approximately U.S.$433 million). On February 11, 2009, the HCC approved the sale subject to the condition that the purchaser sell the ready-mix concrete plant operating in Salgótarján to a third party within the next year. The transaction is still subject to regulatory approval by the Austrian competition authorities. The purchaser has appealed several conditions imposed by the Austrian competition authorities, which we expect will delay the completion of the sale by at least two months.
- During 2008, we sold in several transactions our operations in Italy consisting of four cement grinding mill facilities for an aggregate amount of approximately €148 million (approximately U.S.$210 million), generating a gain of approximately €8 million (U.S.$12 million), which was recognized within "Other expenses, net."
- On July 1, 2007, for accounting purposes under MFRS, we completed the acquisition of 100% of the Rinker shares for a total consideration of approximately U.S.$14.2 billion (approximately Ps155.6 billion) excluding the assumption of approximately U.S.$1.3 billion (approximately Ps13.9 billion) of Rinker's debt. For accounting purposes, July 1, 2007 was established as Rinker's acquisition date and we began consolidating the financial results of Rinker on such date. Our consolidated financial

statements for the year ended December 31, 2007 include Rinker's results of operations for the six-month period ended December 31, 2007 only, and our consolidated statements for the year ended December 31, 2008 include Rinker's results of operations for the entire year.

- As required by the Antitrust Division of the United States Department of Justice, pursuant to a divestiture order in connection with the Rinker acquisition, in December 2007, CEMEX sold to the Irish producer CRH plc, ready-mix concrete and aggregates plants in Arizona and Florida for approximately U.S.$250 million of which approximately U.S.$30 million corresponded to the sale of assets from CEMEX's pre-Rinker acquisition operations.
- On January 11, 2008, in connection with the assets acquired from Rinker (see note 8A to our consolidated financial statements included elsewhere in this annual report), and as part of our agreements with Ready Mix USA, CEMEX contributed and sold to Ready Mix USA, LLC, our ready-mix concrete joint venture with Ready Mix USA, certain assets located in Georgia, Tennessee and Virginia, which had a fair value of approximately U.S.$437 million. We received U.S.$120 million in cash for the assets sold to Ready Mix USA, LLC, and the remaining assets were treated as a U.S.$260 million contribution by us to Ready Mix USA, LLC. As part of the same transaction, Ready Mix USA contributed U.S.$125 million in cash to Ready Mix USA, LLC, which in turn received bank loans of U.S.$135 million. Ready Mix USA, LLC made a special distribution in cash to us of U.S.$135 million. Ready Mix USA manages all the assets acquired. Following this transaction, Ready Mix USA, LLC continues to be owned 50.01% by Ready Mix USA and 49.99% by CEMEX.

Selected Consolidated Income Statement Data

The following table sets forth our selected consolidated income statement data for each of the three years ended December 31, 2006, 2007, and 2008 expressed as a percentage of net sales.

	Year Ended December 31,		
	2006	2007	2008
Net sales	100.0	100.0	100.0
Cost of sales	(63.8)	(66.6)	(68.3)
Gross profit	36.2	33.4	31.7
Administrative and selling expenses	(13.4)	(14.0)	(13.9)
Distribution expenses	(6.7)	(5.7)	(6.3)
Total operating expenses	(20.1)	(19.7)	(20.2)
Operating income	16.1	13.7	11.5
Other expenses, net	(0.3)	(1.4)	(8.8)
Comprehensive financing result:			
Financial expense	(2.7)	(3.7)	(4.2)
Financial income	0.3	0.4	0.2
Results from financial instruments	(0.1)	1.0	(6.2)
Foreign exchange result	0.1	(0.1)	(1.8)
Monetary position result	2.2	2.9	0.2
Net comprehensive financing result	(0.2)	0.5	(11.8)
Equity in income of associates	0.7	0.6	0.5
Income before income tax	16.3	13.4	(8.6)
Income taxes	(2.6)	(2.0)	9.6
Consolidated net income	13.7	11.4	1.0
Minority interest net income	0.7	0.4	0.1
Majority interest net income	13.0	11.0	0.9

Year Ended December 31, 2008 Compared to Year Ended December 31, 2007

Summarized in the table below are the percentage (%) increases (+) and decreases (-) for the year ended December 31, 2008 compared to the year ended December 31, 2007 in our domestic cement and ready-mix concrete sales volumes as well as export sales volumes of cement and domestic cement and ready-mix concrete average prices for each of our geographic segments.

Geographic Segment	Domestic Sales Volumes		Export Sales Volumes	Average Domestic Prices in Local Currency(1)	
	Cement	Ready-Mix Concrete	Cement	Cement	Ready-Mix Concrete
North America					
Mexico	-4%	-6%	-8%	+5%	+4%
United States(2)	-14%	-13%	N/A	-1%	-1%
Europe					
Spain	-30%	-26%	+302%	+4%	+4%
U.K.	-16%	-21%	N/A	+8%	+8%
Rest of Europe	-3%	-1%	N/A	+13%	+6%
South/Central America and the Caribbean (3)					
Venezuela	-42%	-44%	-80%	+9%	+18%
Colombia	-3%	-4%	N/A	+9%	+7%
Rest of South/Central America and the Caribbean(4)	Flat	+6%	N/A	+13%	+13%
Africa and the Middle East(5)					
Egypt	+8%	+15%	N/A	+23%	+39%
Rest of Africa and the Middle East(6)	N/A	-2%	N/A	N/A	+36%
Australia and Asia(7)					
Australia	N/A	+95%	N/A	N/A	+6
Philippines	-2%	N/A	-35%	+9%	N/A
Rest of Asia(8)	Flat	+19%	N/A	+13%	+28%

N/A = Not Applicable

(1) Represents the average change in domestic cement and ready-mix concrete prices in local currency terms. For purposes of a geographic segment consisting of a region, the average prices in local currency terms for each individual country within the region are first translated into Dollar terms (except for the Rest of Europe region, which is translated first into Euros) at the exchange rates in effect as of the end of the reporting period. Variations for a region represent the weighted average change of prices in Dollar terms (except for the Rest of Europe region, which represent the weighted average change of prices in Euros) based on total sales volumes in the region.

(2) Our cement and ready-mix concrete sales volumes and average prices in the United States for the year ended December 31, 2007 include the sales volumes and average prices of the cement and ready-mix concrete operations in the United States we acquired as a result of the Rinker acquisition for the six-month period ended December 31, 2007, except that the sales volumes and average prices relating to the assets we were required to divest as a result of the Rinker acquisition by the Antitrust Division of the United States Department of Justice are included only for the periods from January 1, 2007 through November 30, 2007 (with respect to the assets subject to divestiture owned by us prior to our acquisition of Rinker) and from July 1, 2007 through November 30, 2007 (with respect to the assets subject to divestiture owned by Rinker prior to our acquisition of Rinker).

(3) Our South America, Central America and the Caribbean segment includes our operations in Venezuela, Colombia and the operations listed in note 4 below; however, in the above table, our operations in Venezuela and Colombia are presented separately from our other operations in the segment for purposes of the presentation of our operations in the region. Our consolidated financial statements for the year ended December 31, 2008 includes the results from operations relating to Venezuela for the entire year ended December 31, 2007 and for only the seven-month period ended July 31, 2008 due to the nationalization of CEMEX Venezuela. See note 10A to our consolidated financial statements included elsewhere in this annual report.

(4) Our Rest of South/Central America and the Caribbean segment includes our operations in Costa Rica, Panama, the Dominican Republic, Nicaragua, Puerto Rico, Jamaica and Argentina and our trading activities in the Caribbean.

(5) Our Africa and the Middle East segment includes our operations in Egypt and the operations listed in note 6 below.

(6) Our Rest of Africa and the Middle East segment includes the operations in the United Arab Emirates and Israel.

(7) Our Australia and Asia segment includes the operations in Australia as well as limited operations in China we acquired as a result of the Rinker acquisition for the six-month period ended December 31, 2007, our operations in the Philippines and the operations listed in note 8 below.

(8) Our Rest of Asia segment includes our operations in Malaysia, Thailand, Bangladesh and other assets in the Asian region.

On a consolidated basis, our cement sales volumes decreased approximately 10%, from 87.3 million tons in 2007 to 78.5 million tons in 2008, and our ready-mix concrete sales volumes decreased approximately 4% from 80.5 million cubic meters in 2007 to 77.3 million cubic meters in 2008. Our net sales increased approximately 3% from Ps236,669 million in 2007 to Ps243,201 million in 2008, and our operating income decreased approximately 14% from Ps32,448 million in 2007 to Ps27,884 million in 2008.

The following tables present selected condensed financial information of net sales and operating income for each of our geographic segments for the years ended December 31, 2007 and 2008. Variations in net sales determined on the basis of Mexican Pesos include the appreciation or depreciation which occurred during the period between the local currencies of the countries in the regions vis-à-vis the Mexican Peso; therefore, such variations differ substantially from those based solely on the countries' local currencies:

	Net Sales				
				For the Year Ended December 31,	
Geographic Segment	Variations in Local Currency (1)	Approximate Currency Fluctuations, Net of Inflation Effects	Variations in Mexican Pesos	2007	2008
				(In millions of Mexican Pesos)	
North America					
Mexico	+2%	—	+2%	41,814	42,856
United States(2)	-5%	—	-5%	54,607	52,040
Europe					
Spain	-26%	—	-26%	23,781	17,493
United Kingdom	-8%	-6%	-14%	22,432	19,225
Rest of Europe	+4%	+2%	+6%	47,100	49,819
South/Central America and the Caribbean (3)					
Venezuela	-38%	-1%	-39%	7,317	4,443
Colombia	+8%	+3%	+11%	6,029	6,667
Rest of South/Central America and the Caribbean(4)	+20%	+2%	+22%	10,722	13,044
Africa and Middle East(5)					
Egypt	+35%	+5%	+40%	3,723	5,219
Rest of Africa and the Middle East(6)	+42%	+4%	+46%	4,666	6,831
Australia and Asia(7)					
Australia(8)	+107%	-4%	+103%	8,633	17,536
Philippines	Flat	-8%	-8%	3,173	2,928
Rest of Asia(9)	+24%	+3%	+27%	2,068	2,626
Others(10)	-32%	+1%	-31%	17,872	12,362
			Flat	253,937	253,089
Eliminations from consolidation				(17,268)	(9,888)
Consolidated net sales			+3%	236,669	243,201

	Operating Income				
				For the Year Ended December 31,	
Geographic Segment	Variations in Local Currency (1)	Approximate Currency Fluctuations, Net of Inflation Effects	Variations in Mexican Pesos	2007	2008
				(In millions of Mexican Pesos)	
North America					
Mexico	+14	—	+14%	12,549	14,254
United States(2)	-99%	-3%	-102%	5,966	(111)
Europe					
Spain	-35%	-1%	-36%	6,028	3,883
United Kingdom	-91%	+12%	-79%	(446)	(801)
Rest of Europe	+27%	-12%	+15%	3,281	3,781
South/Central America and the Caribbean (3)					
Venezuela	-49%	-2%	-51%	1,971	958
Colombia	+7%	+3%	+10%	2,037	2,235
Rest of South/Central America and the Caribbean(4)	+31%	+2%	+33%	1,975	2,622
Africa and Middle East(5)					
Egypt	+33%	+4%	+37	1,534	2,104
Rest of Africa and the Middle East(6)	+1,053%	+15%	+1,068%	(51)	494
Australia and Asia(7)					
Australia(8)	+106%	-5%	+101%	1,177	2,364
Philippines	-9%	-7%	-16%	851	711
Rest of Asia(9)	-7%	-11%	-18%	33	27
Others(10)	-11%	+7%	-4%	(4,457)	(4,637)
Consolidated operating income			-14%	32,448	27,884

N/A = Not Applicable

(1) For purposes of a geographic segment consisting of a region, the net sales and operating income data in local currency terms for each individual country

within the region are first translated into Dollar terms at the exchange rates in effect as of the end of the reporting period. Variations for a region represent the weighted average change in Dollar terms based on net sales and operating income for the region.

(2) Our net sales and operating income in the United States for the year ended December 31, 2007 include the results of the cement and ready-mix concrete operations in the United States we acquired as a result of the Rinker acquisition for the six-month period ended December 31, 2007, except that the sales volumes and average prices relating to the assets we were required to divest as a result of the Rinker acquisition by the Antitrust Division of the United States Department of Justice are included only for the periods from January 1, 2007 through November 30, 2007 (with respect to the assets subject to divestiture owned by us prior to our acquisition of Rinker) and from July 1, 2007 through November 30, 2007 (with respect to the assets subject to divestiture owned by Rinker prior to our acquisition of Rinker).

(3) Our South America, Central America and the Caribbean segment includes our operations in Venezuela, Colombia and the operations listed in note 4 below; however, in the above table, our operations in Venezuela and Colombia are presented separately from our other operations in the segment. Our consolidated financial statements for the year ended December 31, 2008 include the results from operations relating to Venezuela for the entire year ended December 31, 2007 and for only the seven-month period ended July 31, 2008 due to the nationalization of CEMEX Venezuela. See note 10A to our consolidated financial statements included elsewhere in this annual report.

(4) Our Rest of South/Central America and the Caribbean segment includes our operations in Costa Rica, Panama, the Dominican Republic, Nicaragua, Puerto Rico, Jamaica and Argentina and our trading activities in the Caribbean.

(5) Our Africa and the Middle East segment includes our operations in Egypt and the operations listed in note 6 below.

(6) Our Rest of Africa and the Middle East segment includes our operations in the United Arab Emirates and Israel.

(7) Our Australia and Asia segment includes our operations in Australia described in note 8 below, our operations in the Philippines and the operations described in note 9 below.

(8) Australia includes our operations in Australia we acquired as a result of the Rinker acquisition for the six-month period ended December 31, 2007.

(9) Our Rest of Asia segment includes our operations in Malaysia, Thailand, Bangladesh and other assets in the Asian region.

(10) Our Others segment includes our worldwide maritime trade operations, our information solutions company and other minor subsidiaries.

Net Sales. Our consolidated net sales increased approximately 3% from Ps236,669 million in 2007 to Ps243,201 million in 2008. The increase in net sales was primarily attributable to the consolidation of our Australian operations for the full year in 2008 as compared to only the six-month period ended December 31, 2007, and, to a lesser extent, to the increase in net sales in our Africa and Middle East segment, which increase was partially offset by the decrease shown in our main operations such as the United States, including the consolidation of the results of Rinker operations in such country for an additional six months during 2008, Spain and United Kingdom segments described in the following paragraphs. Set forth below is a quantitative and qualitative analysis of the effects of the various factors affecting our net sales on a geographic segment basis.

Mexico

Our Mexican operations' domestic cement sales volumes decreased approximately 4% in 2008 compared to 2007, and ready-mix concrete sales volumes decreased approximately 6% during the same period. Our Mexican operations' net sales represented approximately 17% of our total net sales in 2008, in Peso terms, before eliminations resulting from consolidation. The residential and infrastructure sectors continue to be the main drivers of cement demand in the country. In 2008, activity from other construction sectors started to soften as they were affected by the overall challenging macroeconomic environment. Our Mexican operations' cement export volumes, which represented approximately 7% of our Mexican cement sales volumes in 2008, decreased approximately 8% in 2008 compared to 2007, primarily as a result of lower export volumes to the United States. Of our Mexican operations' total cement export volumes during 2008, 56% was shipped to the United States, 37% to Central America and the Caribbean and 7% was shipped to South America. Our Mexican operations' average domestic sales price of cement increased approximately 5% in Peso terms in 2008 compared to 2007, and the average sales price of ready-mix

concrete increased approximately 4% in Peso terms over the same period. For the year ended December 31, 2008, cement represented approximately 57%, ready-mix concrete approximately 26% and our aggregates and other businesses approximately 17% of our Mexican operations' net sales before eliminations resulting from consolidation.

As a result of the increases in average domestic cement and ready-mix concrete sales prices, partially offset by decreases in cement and ready-mix concrete sales volumes, our Mexican net sales, in Peso terms, increased approximately 2% in 2008 compared to 2007.

United States

Our U.S. operations' domestic cement sales volumes, which include cement purchased from our other operations, decreased approximately 14% in 2008 compared to 2007, and ready-mix concrete sales volumes decreased approximately 13% during the same period, including the consolidation of the results of Rinker operations in such country for an additional six months during 2008. The decreases in our U.S. operations' domestic cement and ready-mix concrete sales volumes resulted primarily from significantly weaker demand in all of our U.S. markets, as decreased confidence and lower activity across all sectors resulted in lower volumes. Overall construction activity weakened further as economic conditions continued to worsen and credit availability became very scarce. Our United States operations represented approximately 21% of our total net sales in 2008 in Peso terms, before eliminations resulting from consolidation. Our U.S. operations average sales price of domestic cement decreased approximately 1% in Dollar terms in 2008 compared to 2007, and the average sales price of ready-mix concrete decreased approximately 1% in Dollar terms over the same period. The decreases in average prices were primarily due to decreased demand as a result of recessionary economic conditions and tight credit availability. For the year ended December 31, 2008, cement represented approximately 27%, ready-mix concrete approximately 30% and our aggregates and other businesses approximately 43% of our United States operations' net sales before eliminations resulting from consolidation.

As a result of the decreases in cement and ready-mix concrete sales volumes and average sales prices, net sales from our United States operations, in Dollar terms, decreased approximately 5% in 2008 compared to 2007. The decrease in net sales in the United States during 2008 compared to 2007 resulted from weaker demand in our U.S. markets, the recessionary economic conditions and tight credit availability.

Spain

Our Spanish operations' domestic cement sales volumes decreased approximately 30% in 2008 compared to 2007, while ready-mix concrete sales volumes decreased approximately 26% during the same period. The decreases in domestic cement and ready-mix concrete sales volumes were the result of the country's continued challenging economic environment. Overall economic activity continues to worsen and has negatively affected overall cement demand. No particular segment in the construction sector is experiencing growth. Additionally, infrastructure projects continue to be on hold given the lack of liquidity and overall tighter credit conditions. Our Spanish operations' 2008 net sales represented approximately 7% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Spanish operations' cement export volumes, which represented approximately 5% of our Spanish cement sales volumes in 2008, increased substantially by approximately 302% in 2008 compared to 2007, primarily as a result of sales of cement for the North of Africa and the Mediterranean markets. Of our Spanish operations' total cement export volumes in 2008, 27% was shipped to Europe and the Middle East, 72% to Africa, and 1% to other countries. Our Spanish operations' average domestic sales price of cement increased approximately 4% in Euro terms in 2008 compared to 2007, and the average price of ready-mix concrete increased approximately 4% in Euro terms over the same period. For the year ended December 31, 2008, cement represented approximately 54%, ready-mix concrete approximately 24% and our other businesses approximately 22% of our Spanish operations' net sales before eliminations resulting from consolidation.

As a result of the decreases in domestic cement sales volumes and ready-mix concrete sales volumes, partially offset by increases in average domestic cement and ready-mix concrete sales prices, our Spanish net sales, in Euro terms, decreased approximately 26% in 2008 compared to 2007.

United Kingdom

Our United Kingdom operations' domestic cement sales volumes decreased approximately 16% in 2008 compared to 2007, and ready-mix concrete sales volumes decreased approximately 21% during the same period. The decreases in domestic cement and ready-mix concrete sales volumes resulted primarily from a deteriorating macroeconomic environment in the United Kingdom. Lower liquidity has affected construction spending and the initiation of new projects in all market segments. The decrease in the domestic cement demand during 2008 was primarily driven by less construction spending and fewer new projects. Our United Kingdom operations' 2008 net sales represented approximately 8% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our United Kingdom operations' average domestic sales price of cement increased approximately 8% in Pound terms in 2008 compared to 2007, and the average price of ready-mix concrete increased approximately 8% in Pound terms over the same period. For the year ended December 31, 2008, cement represented approximately 14%, ready-mix concrete approximately 29% and our aggregates and other businesses approximately 57% of our United Kingdom operations' net sales before eliminations resulting from consolidation.

As a result of the decreases in domestic cement and ready-mix concrete sales volumes, partially offset by increases in average domestic cement and ready-mix concrete sales prices, net sales from our United Kingdom operations, in Pound terms, decreased approximately 8% in 2008 compared to 2007.

Rest of Europe

Our operations in our Rest of Europe segment in 2008 consisted of our operations in Germany, France, Croatia, Poland, Latvia, the Czech Republic, Ireland, Italy, Austria, Hungary, Portugal, Denmark, Finland, Norway and Sweden. Our Rest of Europe operations' domestic cement sales volumes decreased approximately 3% in 2008 compared to 2007, and ready-mix concrete sales volumes decreased approximately 1% during the same period. The decrease in domestic cement and ready-mix concrete sales volumes resulted primarily from a general decline in activity in the residential, non-residential and infrastructure sectors, which was partially offset by increases in our domestic cement and ready-mix concrete sales volumes in our German operations. Our Rest of Europe operations' net sales for the year ended December 31, 2008 represented approximately 20% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Rest of Europe operations' average domestic sales price of cement increased approximately 13% in Euro terms in 2008 compared to 2007, and the average price of ready-mix concrete increased approximately 6% in Euro terms over the same period. For the year ended December 31, 2008, cement represented approximately 25%, ready-mix concrete approximately 47% and our other businesses approximately 28% of our Rest of Europe operations' net sales before eliminations resulting from consolidation.

As a result of the increases in average domestic cement and ready-mix concrete sales prices, partially offset by decreases in domestic cement and ready-mix concrete sales volumes, net sales in the Rest of Europe, in Euro terms, increased approximately 4% in 2008 compared to 2007. Set forth below is a discussion of sales volumes in Germany and France, the most significant countries in our Rest of Europe segment, based on net sales.

In Germany, domestic cement sales volumes increased approximately 4% in 2008 compared to 2007, and ready-mix concrete sales volumes in those operations increased approximately 5% during the same period. The increase in domestic cement and ready-mix concrete sales volumes resulted primarily from the non-residential and infrastructure sectors. Our German operations' average domestic sales price of cement increased approximately 11% in Euro terms in 2008 compared to 2007, and the average price of ready-mix concrete increased approximately 5% in Euro terms over the same period. As a result of the increases in domestic cement and ready-mix concrete sales volumes and average sales prices, net sales in Germany, in Euro terms, increased approximately 9% in 2008 compared to 2007.

In France, ready-mix concrete sales volumes remained flat in 2008 compared to 2007, primarily as a result of weaker economic conditions translating in a decline of demand in all sectors. Our French operations' average sales price of ready-mix concrete increased approximately 5% in Euro terms in 2008 compared to 2007. As a result of the increase in the average sales price of ready-mix concrete, net sales in France, in Euro terms, increased approximately 6% in 2008 compared to 2007.

For the reasons mentioned above, net sales before eliminations resulting from consolidation in our Rest of Europe operations, in Euro terms, increased approximately 4% in 2008 compared to 2007.

South America, Central America and the Caribbean

Our operations in South America, Central America and the Caribbean in 2008 consisted of our operations in Venezuela (until the Venezuelan government's nationalization), Colombia, Costa Rica, the Dominican Republic, Panama, Nicaragua, Puerto Rico, Jamaica and Argentina, as well as several cement terminals and other assets in other Caribbean countries and our trading operations in the Caribbean region. Most of these trading operations consist of the resale in the Caribbean region of cement produced by our operations in Venezuela (until the Venezuelan government's nationalization) and Mexico.

Our South America, Central America and the Caribbean operations' domestic cement sales volumes decreased approximately 13% in 2008 compared to 2007, and ready-mix concrete sales volumes decreased approximately 10% over the same period. The decrease in domestic cement and ready-mix concrete sales volumes is primarily attributable to lower economic activity. Our South America, Central American and the Caribbean operations' average domestic sales price of cement increased approximately 15% in Dollar terms in 2008 compared to 2007 due to better market conditions, while the average sales price of ready-mix concrete increased approximately 11% in Dollar terms over the same period. For the year ended December 31, 2008, our South America, Central America and the Caribbean operations represented approximately 9% of our total net sales in Peso terms, before eliminations resulting from consolidation. As a result of the increases in average domestic cement and ready-mix concrete sales prices, partially offset by decreases in domestic cement and ready-mix concrete sales volumes, net sales in our South America, Central America and the Caribbean operations, in Dollar terms, increased approximately 2% in 2008 compared to 2007. For the year ended December 31, 2008, cement represented approximately 65%, ready-mix concrete approximately 25% and our aggregates and other businesses approximately 10% of our South and Central America and the Caribbean operations' net sales before eliminations resulting from consolidation. Set forth below is a discussion of sales volumes in Colombia, the most significant country in our South America, Central American and the Caribbean segment, based on net sales.

Our Colombian operations' cement volumes decreased approximately 3% in 2008 compared to 2007, and ready-mix concrete sales volumes decreased approximately 4% during the same period. The decreases in sales volumes resulted primarily from lower economic activity, especially in the self-construction and low income sectors. For the year ended December 31, 2008, Colombia represented approximately 3% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Colombian operations' average domestic sales price of cement increased approximately 9% in Colombian Peso terms in 2008 compared to 2007, and the average price of ready-mix concrete increased approximately 7% in Colombian Peso terms over the same period. As a result of the increases in average domestic cement and ready-mix concrete sales prices, partially offset by decreases in domestic cement and ready-mix concrete sales volumes, net sales of our Colombian operations, in Colombian Peso terms, increased approximately 8% in 2008 compared to 2007. For the year ended December 31, 2008, cement represented approximately 54%, ready-mix concrete approximately 27% and our aggregates and other businesses approximately 19% of our Colombian operations' net sales before eliminations resulting from consolidation.

Our Rest of South and Central America and the Caribbean operations' cement volumes remained flat in 2008 compared to 2007, and ready-mix concrete sales volumes increased approximately 6% during the same period. For the year ended December 31, 2008, the Rest of South and Central America and the Caribbean represented approximately 5% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Rest of South and Central America and the Caribbean operations' average domestic sales price of cement increased approximately 13% in Dollar terms in 2008 compared to 2007, and the average sales price of ready-mix concrete increased approximately 13% in Dollar terms over the same period. As a result of the increases in ready-mix concrete sales volumes and increases in average domestic cement and ready-mix concrete sales prices, net sales of our Rest of South and Central America and the Caribbean operations, in Dollar terms, increased approximately 20% in 2008 compared to 2007. For the year ended December 31, 2008, cement represented approximately 71%, ready-mix concrete approximately 22% and our other businesses approximately 7% of our Rest of South and Central America and the Caribbean operations' net sales before eliminations resulting from consolidation.

For the reasons mentioned above, net sales before eliminations resulting from consolidation in our South and Central America and the Caribbean operations, in Dollar terms, increased approximately 2% in 2008 compared to 2007.

Africa and the Middle East

Our operations in Africa and the Middle East consist of our operations in Egypt, the United Arab Emirates (UAE) and Israel. Our Africa and Middle East operations' domestic cement sales volumes increased approximately 8% in 2008 compared to 2007, and ready-mix concrete sales volumes remained flat during the same period. The increase in domestic cement sales volumes increased primarily as a result of the increase in demand in our Egyptian operations. For the year ended December 31, 2008, Africa and the Middle East represented approximately 5% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Africa and the Middle East operations' average domestic sales price of cement increased approximately 28% in Dollar terms in 2008, and the average price of ready-mix concrete increased approximately 36% in Dollar terms over the same period. For the year ended December 31, 2008, cement represented approximately 37%, ready-mix concrete approximately 46% and our other businesses approximately 17% of our African and the Middle East operations' net sales before eliminations resulting from consolidation.

Our Egyptian operations' domestic cement sales volumes increased approximately 8% in 2008 compared to 2007, and Egyptian ready-mix concrete sales volumes increased approximately 15% during the same period. The increases in volumes resulted primarily from higher demand after the holidays and lower steel prices which had a positive effect on cement consumption. The high-income housing sector started to slow down in response to the macroeconomic situation, while the self-construction sector maintained its stability. For the year ended December 31, 2008, Egypt represented approximately 2% of our total net sales in Peso terms, before eliminations resulting from consolidation. The average domestic sales price of cement increased approximately 23% in Egyptian pound terms in 2008 compared to 2007, and ready-mix concrete sales prices increased approximately 39% in Egyptian pound terms. During 2008 our Egyptian operations did not export any cement as production was only directed to meet increased domestic demand. As a result of increases in domestic cement sales volumes and sales prices, net sales of our Egyptian operations, in Egyptian pound terms, increased approximately 35% in 2008 compared to 2007. For the year ended December 31, 2008, cement represented approximately 89%, ready-mix concrete approximately 9% and our other businesses approximately 2% of our Egyptian operations' net sales before eliminations resulting from consolidation.

Our Rest of Africa and the Middle East operations' ready-mix concrete sales volumes decreased approximately 2% in 2008 compared to 2007 primarily as a result of adverse weather conditions in 2008 relative to 2007 and the implementation of a client selection process to reduce the risk of uncollectible accounts, and the average ready-mix concrete sales price increased approximately 36%, in Dollar terms, in 2008 compared to 2007. For the year ended December 31, 2008, the UAE and Israel represented approximately 3% of our total net sales in Peso terms, before eliminations resulting from consolidation. As a result of the increase in ready-mix concrete sales prices partially offset by the decrease in ready-mix concrete volumes, net sales of our Rest of Africa and the Middle East operations, in Dollar terms, increased approximately 42% in 2008 compared to 2007. The increase in net sales, in Dollar terms, in our Rest of Africa and the Middle East operations was due to a 52% increase in net sales in Israel and a 30% increase in net sales in the UAE. They represent 59% and 41% respectively of our Rest of Africa and the Middle East operations. For the year ended December 31, 2008, ready-mix concrete represented approximately 73% and our other businesses approximately 27% of our Rest of Africa and the Middle East operations' net sales before eliminations resulting from consolidation.

As a result of increases in average ready-mix concrete sales volumes and domestic cement and ready-mix concrete sales prices, net sales before eliminations resulting from consolidation in our Africa and the Middle East operations, in Dollar terms, increased approximately 41% in 2008 compared to 2007.

Australia and Asia

Our operations in Australia and Asia consist of (i) our Rinker Australian operations, which are consolidated in our results of operations for the six-month period ended December 31, 2007 (CEMEX did not have operations in Australia prior to the acquisition of Rinker), and for the entire year ended December 31, 2008, and (ii) our operations in the Philippines, Thailand, Bangladesh, Taiwan, Malaysia, and the operations we acquired from Rinker in China, which are also consolidated in our results of operations for the six-month period ended December 31, 2007, and for the entire year ended December 31, 2008. Our Australian and Asian operations' domestic cement sales volumes decreased approximately 1% in 2008 compared to 2007. Our Australian and Asian operations' ready-mix concrete sales volumes increased approximately 64% in 2008 compared to 2007, primarily due the consolidation of the results of operations of Rinker for an additional six months in 2008 compared to 2007. The average sales price of ready-mix concrete in our Australian and Asian operations increased by approximately 18% in Dollar terms in 2008 compared to 2007. The main drivers of demand in the segment continue to be the commercial and infrastructure sectors. Approximately 90% of the increase in ready-mix concrete sales volumes in our Australia and Asia operations during 2008 compared to 2007 resulted from the consolidation of our Australian operations acquired from Rinker for an additional six months during 2008 compared to 2007.

For the year ended December 31, 2008, Australia and Asia represented approximately 9% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Asian operations' cement export volumes, which represented approximately 21% of our Asian operations' cement sales volumes in 2008, decreased approximately 35% in 2008 compared to 2007 primarily due to decreased cement demand in the Europe region. Of our Asian operations' total cement export volumes during 2008, approximately 47% was shipped to Africa, 40% was shipped to Europe and 13% to the Southeast Asia region. For the year ended December 31, 2008, cement represented approximately 14%, ready-mix concrete approximately 46% and our other businesses approximately 40% of our Australian and Asian operations' net sales before eliminations resulting from consolidation.

We did not have operations in Australia prior to our acquisition of Rinker in 2007. Our Australian operations' net sales for the year ended December 31, 2008 represented approximately 7% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Australian operations' ready-mix concrete sales volumes represented 8% in 2008 of our total ready-mix concrete sales volumes. The main drivers of ready-mix concrete demand in Australia are the commercial and civil construction sectors. For the year ended December 31, 2008, ready-mix concrete represented approximately 51%, aggregates represented approximately 34% and our other businesses approximately 15% of our Australian operations' net sales before eliminations resulting from consolidation.

Our Philippines operations' domestic cement volumes decreased approximately 2% in 2008 compared to 2007. For the year ended December 31, 2008, the Philippines represented approximately 1% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Philippines operations' average domestic sales price of cement increased approximately 9% in Philippine Peso terms in 2008 compared to 2007. As a result of the increases in average domestic cement sales price, net sales of our Philippines operations, in Philippine Peso terms, remained flat in 2008 compared to 2007. For the year ended December 31, 2008, cement represented 100% of our Philippine operations' net sales before eliminations resulting from consolidation.

Our Rest of Asia operations' ready-mix concrete sales volumes, which include our Malaysian operations (representing nearly all our ready-mix concrete sales volumes in the Rest of Asia region), increased approximately 19% in 2008 compared to 2007. The average sales price of ready-mix concrete increased approximately 28%, in Dollar terms, during 2008. For the reasons mentioned above, net sales of our Rest of Asia operations, in Dollar terms, increased approximately 24% in 2008 compared to 2007. For the year ended December 31, 2008, cement represented approximately 29%, ready-mix concrete approximately 56% and our other businesses approximately 15% of our Rest of Asia operations' net sales before eliminations resulting from consolidation.

For the reasons described above, our Australian and Asian operations' net sales in Dollar terms increased approximately 70% in 2008 compared to 2007. Approximately all of the increase in net sales in our Australian and Asian operations during 2008 compared to 2007 resulted from the consolidation of our Australian operations acquired from Rinker for an additional six months in 2008 compared to 2007 partially offset by the decrease in net sales in the Philippines.

Others

Our Others segment includes our worldwide cement, clinker and slag trading operations, our information technology solutions company and other minor subsidiaries. Net sales of our Others segment decreased approximately 32% before eliminations resulting from consolidation in 2008 compared to 2007 in Dollar terms, primarily as a result of a decrease of approximately 26% in our worldwide cement, clinker and slag trading operations and a decrease of approximately 19% in our information technology solutions company. For the year ended December 31, 2008, our trading operations' net sales represented approximately 57% and our information technology solutions company 21% of our Others segment's net sales.

Cost of Sales. Our cost of sales, including depreciation, increased approximately 5% from Ps157,696 million in 2007 to Ps166,214 million in 2008, primarily due to the consolidation of the results of Rinker operations in Australia and the United States for an additional six months during 2008, as well as higher electricity cost and lower economies of scale resulting from lower volumes. These increases in cost were partially offset by the sale of emission allowances for approximately U.S.$310 million. According to our policy, these revenues are viewed as a reduction of our consolidated cost of sales. As a percentage of net sales, cost of sales increased from 67% in 2007 to 68% in 2008. In our cement and aggregates business, we have several producing plants and many selling points. Our cost of sales excludes freight expenses of finished products from our producing plants to our selling points, the expenses related to personnel and equipment comprising our selling network and those expenses related to warehousing at the points of sale, which were included as part of our administrative and selling expenses line item in the amount of approximately Ps10,667 million in 2007 and Ps11,441 million in 2008. Likewise, cost of sales excludes freight expenses from the points of sale to the customers' locations, which are included as part of our distribution expenses line item and which, for the years ended December 31, 2007 and 2008, represented expenses of approximately Ps13,405 million and Ps15,320 million, respectively. Cost of sales include the expenses related to warehousing at the producing plants as well as transfer costs within our producing plants.

Gross Profit. For the reasons explained above, our gross profit decreased approximately 3% from Ps78,973 million in 2007 to Ps76,987 million in 2008. As a percentage of net sales, gross profit decreased from approximately 33% in 2007 to 32% in 2008. In addition, our gross profit may not be directly comparable to those of other entities that include in cost of sales freight expenses of finished products from the producing plants to their selling points, and the costs related to their sales force and warehousing at the point of sale, which in CEMEX are included within administrative and selling expenses, and the cost associated with freight to the customers' locations, which in CEMEX are included as part of our distribution expenses, and which in aggregate represented costs of approximately Ps24,072 million in 2007 and Ps26,761 million in 2008.

Operating Expenses. Our operating expenses increased approximately 6% from Ps46,525 million in 2007 to Ps49,103 million in 2008, mainly as a result of the consolidation of the results of Rinker operations in Australia and the United States for an additional six months during 2008, which was partially mitigated by our cost-reduction initiatives. As a percentage of net sales, our operating expenses remained flat in 2007 compared to 2008, reflecting our cost-reduction efforts. Operating expenses include administrative, selling and distribution expenses. See note 2R to our consolidated financial statements included elsewhere in this annual report.

Operating Income. For the reasons mentioned above, our operating income decreased approximately 14% from Ps32,448 million in 2007 to Ps27,884 million in 2008. As a percentage of net sales, operating income decreased from approximately 14% in 2007 to 11% in 2008. Additionally, set forth below is a quantitative and qualitative analysis of the effects of the various factors affecting our operating income on a geographic segment basis.

Mexico

Our Mexican operations' operating income increased approximately 14% from Ps12,549 million in 2007 to Ps14,254 million in 2008 in Peso terms. The increase in operating income was primarily attributable to our cost-reduction initiatives and increases in average domestic cement and ready-mix concrete sales prices, partially offset by the reduction in sales volumes due to the overall challenging macroeconomic environment.

United States

Our U.S. operations' operating income decreased substantially, from Ps5,966 million in 2007 to an operating loss of Ps111 million in 2008 in Peso terms. As mentioned above, the decrease in operating income resulted primarily from a significantly weaker demand in all of our U.S. markets, as decreased confidence and lower activity across all sectors resulted in lower volumes. Overall construction activity weakened further as economic conditions continued to worsen and credit availability became very scarce.

Spain

Our Spanish operations' operating income decreased approximately 36% from Ps6,028 million in 2007 to Ps3,883 million in 2008 in Peso terms and 35% in Euro terms. The decrease in operating income resulted primarily from the country's continued challenging economic environment. Overall economic activity continues to worsen and has negatively affected overall cement demand. No particular segment in the construction sector is experiencing growth. Additionally, infrastructure projects continue to be on hold given the lack of liquidity and overall tighter credit conditions.

United Kingdom

Our United Kingdom operations' operating loss increased approximately 79% from a loss of Ps446 million in 2007 to a loss of Ps801 million in 2008 in Peso terms. In Pound terms, the increase in the operating loss was approximately 91%. The increase in the operating loss of our United Kingdom operations during 2008 compared to 2007 primarily resulted from a decrease in sales of 8% in Pound terms, and an increase in variable cost of sales (from Ps398 million in 2007 to Ps553 million in 2008, 39% in Pound terms). The variable cost in 2007 represented 39% of the net sales; in 2008, the variable cost represented 59% of the net sales. The increase in variable cost of sale resulted primarily from the increase in cost of fuels and electric power due to the international increase of oil prices.

Rest of Europe

Our Rest of Europe operations' operating income increased approximately 15% from Ps3,281 million in 2007 to Ps3,781 million in 2008 in Peso terms and 27% in Euro terms. The increase in our Rest of Europe operations' operating income resulted from increases in average domestic cement and ready-mix concrete sales prices, partially offset by decreases in domestic cement and ready-mix concrete sales volume.

In Germany, operating income increased significantly from a loss of Ps24 million in 2007 to an income of Ps419 million in 2008 in Peso terms. The increase resulted primarily from increases in domestic cement and ready-mix concrete sales volumes and average sales prices.

In France, operating income increased approximately 39%, from Ps926 million in 2007 to Ps1,284 million in 2008 in Peso terms. In Euro terms, operating income increased by 39%. The increase in Euro terms resulted primarily from an increase in net sales described above complemented by a decrease in operating expenses.

South America, Central America and the Caribbean

Our South America, Central America and the Caribbean operations' operating income decreased approximately 3% from Ps5,983 million in 2007 to Ps5,815 million in 2008 in Peso terms. In Dollar terms, operating income remained flat for the same period. The decrease in operating income was primarily attributable to the consolidation of CEMEX Venezuela for an additional five months in 2007 compared to 2008 due to the nationalization by the Venezuelan government, which was partially offset by an increase in net sales in Dollar terms.

In Colombia, operating income increased approximately 10%, from Ps2,037 million in 2007 to Ps2,235 million in 2008 in Peso terms. In Dollar terms, operating income increased 12% for the same period. The increase resulted primarily from increases in average domestic cement and ready-mix concrete sales prices, partially offset by decreases in domestic cement and ready-mix concrete sales volumes.

Africa and the Middle East

Our Africa and the Middle East operations' operating income increased approximately 75% from Ps1,483 million in 2007 to Ps2,598 million in 2008 in Peso terms. In Dollar terms, the increase in operating income was approximately 76% during the same period. The increase in operating income resulted primarily from increases in average ready-mix concrete sales volumes and domestic cement and ready-mix concrete sales prices.

Operating income from our Egyptian operations increased approximately 37% from Ps1,534 million in 2007 to Ps2,104 million in 2008 in Peso terms and 38% in Dollar terms, primarily as a result of higher demand after the holidays and lower steel prices which had a positive effect on cement consumption. High-income housing started to slow down in response to the macroeconomic situation, while the self-construction sector maintained its stability. Our Rest of Africa and the Middle East operations increased from an operating loss of Ps51 million in 2007 to an operating income of Ps494 million in 2008 in Peso terms. The increase in operating income in Dollar terms in the Rest of Africa and Middle East resulted primarily from an increase in net sales.

Australia and Asia

Our Australia and Asia operations' operating income increased approximately 51% from Ps2,061 million in 2007 to Ps3,102 million in 2008 in Peso terms and 58% in Dollar terms. The increase in operating income resulted primarily from the consolidation of Rinker's operations for an additional six months in 2008 compared to 2007.

In Australia, operating income increased significantly from Ps1,177 million in 2007 to Ps2,364 in 2008 in Peso terms. In Dollar terms, the increase in operating income for the same period was approximately 99%. The increase resulted primarily from the consolidation of the results of operations of Rinker for an additional six months in 2008 compared to 2007.

Our Philippines operating income decreased approximately 16%, in Peso terms, from Ps851 million in 2007 to Ps711 million in 2008 in Peso terms. In Dollar terms, operating income decreased 4% in the same period.

Others

Operating loss in our Others segment increased approximately 4% from a loss of Ps4,457 million in 2007 to a loss of Ps4,637 million in 2008 in Peso terms. The increase in operating loss can be primarily explained by a decrease in operating income of 64% in our worldwide cement, clinker and slag trading operations.

Other Expenses, Net. Our other expenses, net, increased significantly from Ps3,281 million in 2007 to Ps21,496 million in 2008, primarily due to the impairment losses of goodwill and other long-lived assets in the amount of approximately Ps21,125 million as described in notes 6, 9 and 10 to the consolidated financial statements included elsewhere in this annual report.

The most significant items included under this caption in 2007 and 2008 are as follows:

	2007	2008
Impairment losses	(195)	(21,125)
Restructuring costs	(1,158)	(3,141)
Non-operational donations	(367)	(174)
Current and deferred ESPS	(246)	2,283
Antidumping duties	(32)	19
Results in sales of assets and others, net	(1,283)	642
	(3,281)	(21,496)

Comprehensive Financing Result. Pursuant to MFRS, the comprehensive financing result should measure the real cost (gain) of an entity's financing, net of the foreign currency fluctuations and the inflationary effects on monetary assets and liabilities. In periods of high inflation or currency depreciation, significant volatility may arise and is reflected under this caption. Comprehensive financing income (expense) includes:

- financial or interest expense on borrowed funds;
- financial income on cash and temporary investments;
- appreciation or depreciation resulting from the valuation of financial instruments, including derivative instruments and marketable securities, as well as the realized gain or loss from the sale or liquidation of such instruments or securities;
- foreign exchange gains or losses associated with monetary assets and liabilities denominated in foreign currencies; and
- beginning in 2008, gains and losses resulting from having monetary liabilities or assets exposed to inflation (monetary position result) in countries under high inflation environments. Until December 31, 2007, monetary position results were calculated on each country's net monetary position despite the level of inflation.

	Year Ended December 31,	
	2007	2008
	(in millions of Pesos)	
Comprehensive financing result:		
Financial expense	(8,809)	(10,223)
Financial income	862	579
Results from financial instruments	2,387	(15,172)
Foreign exchange result	(243)	(4,327)
Monetary position result	6,890	418
Comprehensive financing result	1,087	(28,725)

Our comprehensive financing result decreased from a gain of Ps1,087 million in 2007 to a loss of Ps28,725 million in 2008. The components of the change are shown above. Our financial expense increased approximately 16%, from Ps8,809 million in 2007 to Ps10,223 million in 2008. The increase was primarily attributable to the increase in our total debt resulting from the acquisition of Rinker in 2007, which was partially mitigated by the lower interest rates and the effect of our interest rate derivatives position. Our financial income decreased 33% from Ps862 million in 2007 to Ps579 million in 2008. The decrease was primarily due to a decline in our short-term investments as well as the lower interest rates. Our results from financial instruments decreased significantly from a gain of Ps2,387 million in 2007 to a loss of Ps15,172 million in 2008, primarily attributable to significant valuation changes in our derivatives financial instrument portfolio during 2008 compared to 2007 (discussed below). Our net foreign exchange result deteriorated from a loss of Ps243 million in 2007 to a loss of Ps4,327 million in 2008, mainly due to the depreciation of the Mexican Peso and the Euro against the Dollar. Our monetary position result (generated by the recognition of inflation effects over monetary assets and liabilities) decreased approximately 94% from a gain of Ps6,890 million during 2007 to a gain of Ps418 million during 2008, mainly because until December 31, 2007, this effect was determined for all subsidiaries without considering the inflation level, while commencing January 1, 2008 this effect is determined only for high-inflation environment countries as discussed in note 2S to our consolidated financial statements included elsewhere in this annual report.

Derivative Financial Instruments. For the years ended December 31, 2007 and 2008, our derivative financial instruments that had a potential impact on our comprehensive financing result consisted of foreign exchange derivative instruments (excluding our foreign exchange forward contracts designated as hedges of our net investment in foreign subsidiaries), interest rate swaps, cross-currency swaps, including our derivative instruments related to the issuance of perpetual debentures by consolidated entities, equity forward contracts and interest rate derivatives related to energy projects as discussed in notes 11C and 11D to our consolidated financial statements included elsewhere in this annual report.

For the year ended December 31, 2008, we had a net loss of approximately Ps15,172 million in the item "Results from financial instruments" as compared to a net gain of Ps2,387 million in 2007. The loss in 2008 is mainly attributable to valuation losses related to changes in the fair value of equity forward contracts for approximately Ps7,831 million, cross-currency swaps and other currency derivatives for approximately Ps6,998 and interest rate derivatives for approximately Ps2,386. These losses were partially offset by a net valuation gain of approximately Ps1,963 in connection with changes in the fair value of our cross-currency swaps related to our perpetual debentures, exchanging Dollars for Japanese Yen and gains in other marketable securities of approximately Ps80 million. The losses related to equity forward contracts are attributable to the generalized decline of price levels in all the capital markets worldwide. The decline in our debt related cross-currency swaps is primarily attributable to the appreciation of the Dollar against the Euro. The estimated fair value loss of the interest rate derivatives is primarily attributable to the decrease in the five-year interest rates in Euros and Dollars. The estimated fair value gain of the cross-currency swaps associated with our perpetual debentures is primarily attributable to the decrease in the ten-year Yen interest rate.

Income Taxes. Our effective tax rate decreased significantly from 15.1% in 2007 to (110.9%) in 2008. Our tax expense, which primarily consisted of income taxes plus deferred taxes, decreased significantly from an expense of Ps4,796 million in 2007 to an income of Ps23,562 million in 2008. Our current income tax expense increased 49% from Ps5,223 million in 2007 to Ps7,762 million in 2008. Our deferred tax benefit increased significantly from Ps427 million in 2007 to Ps31,324 million in 2008. The increase was attributable to a deferred tax benefit resulting from changes in the value of our net investments, operating losses, and the favorable resolution of certain tax contingencies. For the years ended December 31, 2007 and 2008, our statutory income tax rate was 28%.

Consolidated Net Income. For the reasons described above, our consolidated net income (before deducting the portion allocable to minority interest) for 2008 decreased approximately Ps24,622 million, or 91%, from Ps26,945 million in 2007 to Ps2,323 million in 2008. As a percentage of net sales, consolidated net income decreased from 11% in 2007 to 1% in 2008.

Majority Interest Net Income. Majority interest net income represents the difference between our consolidated net income and minority interest net income, which is the portion of our consolidated net income attributable to those of our subsidiaries in which non-affiliated third parties hold interests. Changes in minority interest net income in any period reflect changes in the percentage of the stock of our subsidiaries held by non-affiliated third parties as of the end of each month during the relevant period and the consolidated net income attributable to those subsidiaries.

The minority interest net income decreased approximately 95% from Ps837 million in 2007 to Ps45 million in 2008, mainly as a result of a significant decrease in the net income of the consolidated entities in which others have a minority interest. The percentage of our consolidated net income allocable to minority interests decreased from 3% in 2007 to 2% in 2008. Majority interest net income decreased by approximately 91% from Ps26,108 million in 2007 to Ps2,278 million in 2008. As a percentage of net sales, majority interest net income decreased from 11% in 2007 to 1% in 2008.

Year Ended December 31, 2007 Compared to Year Ended December 31, 2006

Summarized in the table below are the percentage (%) increases (+) and decreases (-) for the year ended December 31, 2007 compared to the year ended December 31, 2006 in our domestic cement and ready-mix concrete sales volumes as well as export sales volumes of cement and domestic cement and ready-mix concrete average prices for each of our geographic segments.

	Domestic Sales Volumes		Export Sales Volumes	Average Domestic Prices in Local Currency(1)	
Geographic Segment	Cement	Ready-Mix Concrete	Cement	Cement	Ready-Mix Concrete
North America					
Mexico	+4%	+8%	-21%	-1%	+2%
United States(2)	-8%	+13%	N/A	+4%	+1%
Europe					
Spain	-5%	-4%	-28%	+9%	+7%
U.K.	+12%	-2%	N/A	+8%	+4%
Rest of Europe	+5%	Flat	N/A	+15%	+5%
South/Central America and the Caribbean(3)					
Venezuela	+16%	+10%	-51%	+5%	+26%
Colombia	+19%	+24%	N/A	+17%	+12%
Rest of South/Central America and the Caribbean(4)	-3%	+7%	N/A	+23%	+11%
Africa and the Middle East(5)					
Egypt	+8%	+16%	-100%	+9%	+14%
Rest of Africa and the Middle East(6)	N/A	-2%	N/A	N/A	+13%
Australia and Asia(7)					
Australia	N/A	N/A	N/A	N/A	N/A
Philippines	+12%	N/A	-9%	+5%	N/A
Rest of Asia(8)	+18%	+11%	N/A	+10%	+10%

N/A = Not Applicable

(1) Represents the average change in domestic cement and ready-mix concrete prices in local currency terms. For purposes of a geographic segment consisting of a region, the average prices in local currency terms for each individual country within the region are first translated into Dollar terms (except for the Rest of Europe region, which is translated first into Euros) at the exchange rates in effect as of the end of the reporting period. Variations for a region represent the weighted average change of prices in Dollar terms (except for the Rest of Europe region, which represents the weighted average change of prices in Euros) based on total sales volumes in the region.

(2) Our cement and ready-mix concrete sales volumes and average prices in the United States for the year ended December 31, 2007 include the sales volumes and average prices of the cement and ready-mix concrete operations in the United States which we acquired as a result of the Rinker acquisition for the six-month period ended December 31, 2007, except that the sales volumes and average prices relating to the assets we were required to divest as a result of the Rinker acquisition by the Antitrust Division of the United States Department of Justice are included only for the periods from January 1, 2007 through November 30, 2007 (with respect to the assets subject to divestiture owned by us prior to our acquisition of Rinker) and from July 1, 2007 through November 30, 2007 (with respect to the assets subject to divestiture owned by Rinker prior to our acquisition of Rinker).

(3) Our South America, Central America and the Caribbean segment includes our operations in Venezuela, Colombia and the operations listed in note 4 below; however, in the above table, our operations in Venezuela and Colombia are presented separately from our other operations in the segment for purposes of the presentation of our operations in the region.

(4) Our Rest of South/Central America and the Caribbean segment includes our operations in Costa Rica, Panama, the Dominican Republic, Nicaragua, Puerto Rico, Jamaica and Argentina and our trading activities in the Caribbean.

(5) Our Africa and the Middle East segment includes our operations in Egypt and the operations listed in note 6 below.

(6) Our Rest of Africa and the Middle East segment includes the operations in the United Arab Emirates and Israel.

(7) Our Australia and Asia segment includes the operations in Australia as well as limited operations in China which we acquired as a result of the Rinker acquisition for the six-month period ended December 31, 2007, our operations in the Philippines and the operations listed in note 8 below.

(8) Our Rest of Asia segment includes our operations in Malaysia, Thailand, Bangladesh and other assets in the Asian region.

On a consolidated basis, our cement sales volumes increased approximately 2%, from 85.7 million tons in 2006 to 87.3 million tons in 2007, and our ready-mix concrete sales volumes increased approximately 9%, from 73.6 million cubic meters in 2006 to 80.5 million cubic meters in 2007. Our net sales increased approximately 11% from Ps213,767 million in 2006 to Ps236,669 million in 2007, and our operating income decreased approximately 6% from Ps34,505 million in 2006 to Ps32,448 million in 2007.

Approximately 69% of the increase in the cement sales volumes during 2007 compared to 2006 resulted from the consolidation of Rinker's operations for six months during 2007 compared to 2006. All the increase in ready-mix concrete sales volumes during 2007 compared to 2006 resulted from the consolidation of Rinker's operations for six months during 2007 compared to 2006. All the increase in net sales during 2007 compared to 2006 resulted from the consolidation of Rinker's operations for six-months in 2007 compared to 2006. Both our and Rinker's United States operations experienced significant declines in net sales in 2007, as described below.

The following tables present selected condensed financial information of net sales and operating income for each of our geographic segments for the years ended December 31, 2006 and 2007. Variations in net sales determined on the basis of constant Mexican Pesos include the appreciation or depreciation which occurred during the period between the local currencies of the countries in the regions vis-à-vis the Mexican Peso, as well as the effects of inflation as applied to the Mexican Peso amounts using our weighted average inflation factor; therefore, such variations differ substantially from those based solely on the countries' local currencies:

	Net Sales				
				For the Year Ended December 31,	
Geographic Segment	Variations in Local Currency (1)	Approximate Currency Fluctuations, Net of Inflation Effects	Variations in Constant Mexican Pesos	2006	2007
				(In millions of constant Mexican Pesos as of December 31, 2007)	
North America					
Mexico	+7%	-9%	-2%	42,577	41,814
United States(2)	+18%	-6%	+12%	48,911	54,607
Europe					
Spain	+4%	+5%	+9%	21,834	23,781
United Kingdom	Flat	-6%	-6%	23,854	22,432
Rest of Europe	+4%	+1%	+5%	44,691	47,100
South/Central America and the Caribbean(3)					
Venezuela	+22%	-4%	+18%	6,217	7,317
Colombia	+38%	+5%	+43%	4,206	6,029
Rest of South / Central America and the Caribbean(4)	+22	-3%	+19%	9,046	10,722
Africa and Middle East(5)					
Egypt	+10%	-6%	+4%	3,577	3,723
Rest of Africa and the Middle East(6)	+3%	-6%	-3%	4,794	4,666
Australia and Asia(7)					
Australia (8)	N/A	N/A	N/A	—	8,633
Philippines	+9%	+12%	+21%	2,620	3,173
Rest of Asia(9)	+24%	-2%	+22%	1,694	2,068
Others(10)	-5%	-6%	-11%	20,134	17,872
			+8%	234,155	253,937
Eliminations from consolidation				(20,388)	(17,268)
Consolidated net sales			+11%	213,767	236,669

Geographic Segment	Operating Income: Variations in Local Currency (1)	Approximate Currency Fluctuations, Net of Inflation Effects	Variations in Constant Mexican Pesos	For the Year Ended December 31, 2006	2007
				(In millions of constant Mexican Pesos as of December 31, 2007)	
North America					
Mexico	+3%	-8%	-5%	13,210	12,549
United States(2)	-31%	-9%	-41%	10,092	5,966
Europe					
Spain	+4%	+3%	+7%	5,637	6,028
United Kingdom	-418%	+28%	-390%	154	(446)
Rest of Europe	+22%	+26%	+48%	2,220	3,281
South/Central America and the Caribbean(3)					
Venezuela	+14%	-4%	+10%	1,799	1,971
Colombia	+78%	+1%	+79%	1,138	2,037
Rest of South/Central America and the Caribbean(4)	+59%	-10%	+49%	1,322	1,975
Africa and Middle East(5)					
Egypt	+12%	-8%	+4%	1,475	1,534
Rest of Africa and the Middle East(6)	-146%	+3%	-143%	120	(51)
Australia and Asia(7)					
Australia(8)	N/A	N/A	N/A	—	1,177
Philippines	+13%	+4%	+17%	726	851
Rest of Asia(9)	+157%	-4%	+153%	(62)	33
Others(10)	-32%	-2%	-34%	(3,326)	(4,457)
Consolidated operating income			-6%	34,505	32,448

N/A = Not Applicable

(1) For purposes of a geographic segment consisting of a region, the net sales and operating income data in local currency terms for each individual country within the region are first translated into Dollar terms at the exchange rates in effect as of the end of the reporting period. Variations for a region represent the weighted average change in Dollar terms based on net sales and operating income for the region.

(2) Our net sales and operating income in the United States for the year ended December 31, 2007 include the results of the cement and ready-mix concrete operations in the United States which we acquired as a result of the Rinker acquisition for the six-month period ended December 31, 2007, except that the sales volumes and average prices relating to the assets we were required to divest as a result of the Rinker acquisition by the Antitrust Division of the United States Department of Justice are included only for the periods from January 1, 2007 through November 30, 2007 (with respect to the assets subject to divestiture owned by us prior to our acquisition of Rinker) and from July 1, 2007 through November 30, 2007 (with respect to the assets subject to divestiture owned by Rinker prior to our acquisition of Rinker).

(3) Our South America, Central America and the Caribbean segment includes our operations in Venezuela, Colombia and the operations listed in note 4 below; however, in the above table, our operations in Venezuela and Colombia are presented separately from our other operations in the segment.

(4) Our Rest of South/Central America and the Caribbean segment includes our operations in Costa Rica, Panama, the Dominican Republic, Nicaragua, Puerto Rico, Jamaica and Argentina and our trading activities in the Caribbean.

(5) Our Africa and the Middle East segment includes our operations in Egypt and the operations listed in note 6 below.

(6) Our Rest of Africa and the Middle East segment includes our operations in the United Arab Emirates and Israel.

(7) Our Australia and Asia segment includes our operations in Australia described in note 8 below, our operations in the Philippines and the operations described in note 9 below.

(8) Australia includes our operations in Australia which we acquired as a result of the Rinker acquisition for the six-month period ended December 31, 2007.

(9) Our Rest of Asia segment includes our operations in Malaysia, Thailand, Bangladesh and other assets in the Asian region.

(10) Our Others segment includes our worldwide maritime trade operations, our information solutions company and other minor subsidiaries.

Net Sales. Our net sales increased approximately 11% from Ps213,767 million in 2006 to Ps236,669 million in 2007 in constant Peso terms. The increase in net sales was entirely attributable to the consolidation of Rinker's operations for six months in 2007. On a pro forma basis excluding the consolidation of Rinker's operations for six months in 2007, our consolidated net sales would have decreased by approximately 1% in 2007 as compared to the previous year, mainly as a result of the decline in sales volumes in our United States operations as explained below. This decline was partially offset by higher sales volumes and prices in our operations in most of our markets. Of our consolidated net sales before eliminations resulting from consolidation in 2006 and 2007, including the last six months of Rinker in 2007, approximately 37% and 36%, respectively, were derived from sales of cement, approximately 30% and 32%, respectively, from sales of ready-mix concrete and approximately 33% and 32%, respectively, from sales of other construction materials, including aggregates, services and our Others segment business.

Through the Rinker acquisition, we acquired additional operations in the United States, which had a significant impact on our operations in that geographic segment, and we acquired operations in Australia, a geographic segment in which we did not have operations prior to the Rinker acquisition, as well as limited operations in China. The operating data set forth below in the discussion of our United States operations for 2006 and during the first six months of 2007 reflect operating data for those operations prior to our acquisition of Rinker.

Set forth below is a quantitative and qualitative analysis of the effects of the various factors affecting our net sales on a geographic segment basis.

Mexico

Our Mexican operations' domestic cement sales volumes increased approximately 4% in 2007 compared to 2006, and ready-mix concrete sales volumes increased approximately 8% during the same period. The main drivers of the increase in domestic sales volumes during the year were government infrastructure spending and residential construction. Our Mexican operations' net sales represented approximately 16% of our total net sales in 2007, in constant Peso terms, before elminations resulting from consolidation. Our Mexican operations' cement export volumes, which represented approximately 7% of our Mexican cement sales volumes in 2007, decreased approximately 21% in 2007 compared to 2006, primarily as a result of lower export volumes to the United States. Of our Mexican operations' total cement export volumes during 2007, 82% was shipped to the United States, 15% to Central America and the Caribbean and 3% to South America. Our Mexican operations' average domestic cement sales price decreased approximately 1% in 2007 compared to 2006 in constant Peso terms (increased approximately 3% in nominal Peso terms). Our Mexican operations' average sales price of ready-mix concrete increased approximately 2% in constant Peso terms (increased approximately 6% in nominal Peso terms) over the same period. For the year ended December 31, 2007, cement represented approximately 58%, ready-mix concrete represented approximately 27% and our other business represented approximately 16% of our Mexican operations' net sales before eliminations resulting from consolidation.

As a result of the decrease in average sales price of domestic cement, partially offset by the increases in domestic cement and ready-mix concrete sales volumes and sales price of ready-mix concrete, our net sales in Mexico, in constant Peso terms, decreased approximately 2% (increased approximately 7% in nominal Peso terms) in 2007 compared to 2006.

United States

Our U.S. operations' cement sales volumes, which include cement purchased from our other operations and the operations we acquired from Rinker, and which were consolidated in our U.S. operations' results for the six-month period ended December 31, 2007, decreased approximately 8% in 2007 compared to 2006. Our U.S. operations' ready-mix concrete sales volumes increased approximately 13% during the same period. As noted above, these U.S. sales volumes also include pre-divestiture volumes from the assets we divested on November 30, 2007 pursuant to the U.S. antitrust consent decree we entered into in connection with the Rinker acquisition. The decrease in cement sales volumes resulted primarily from the continued decline in the U.S. residential sector. Aditionally, volumes were adversely affected by unfavorable weather conditions, primarily in California, Arizona and Florida. These effects were partially offset by the consolidation of Rinker's U.S. operations for the six-month period ended

December 31, 2007 (representing approximately 6% of our U.S. cement sales volumes and approximately 18% of our U.S. ready-mix concrete sales volumes). The increase in ready-mix concrete sales volumes in 2007 compared to 2006 resulted primarily from the consolidation of Rinker's U.S. operations for the six-month period ended December 31, 2007 partially offset by the on-going downturn in the residential sector. Our U.S. operations' net sales represented approximately 22% of our total net sales in 2007, in constant Peso terms, before eliminations resulting from consolidation. Our U.S. operations' average sales price of cement increased approximately 4% in Dollar terms in 2007 compared to 2006, and the average sales price of ready-mix concrete increased approximately 1% in Dollar terms over the same period. For the year ended December 31, 2007, cement represented approximately 31%, ready-mix concrete represented approximately 34% and our other business represented approximately 35% of our U.S. operations' net sales before eliminations resulting from consolidation.

As a result of the increases in ready-mix concrete sales volumes (primarily driven by the consolidation of the Rinker operations for the six-month period ended December 31, 2007), and the average sales prices of domestic cement and ready-mix concrete, despite the decrease in domestic cement sales volumes, net sales in the United States, in Dollar terms, increased approximately 18% (increased approximately 12% in constant Peso terms) in 2007 compared to 2006.

Spain

Our Spanish operations' domestic cement sales volumes decreased approximately 5% in 2007 compared to 2006, and ready-mix concrete sales volumes decreased approximately 4% during the same period. The decreases in sales volumes resulted primarily from the continued deceleration in the residential sector and a decrease in major infrastructure projects from pre-election levels. Our Spanish operations' net sales represented approximately 9% of our total net sales in 2007, in constant Peso terms, before eliminations resulting from consolidation. Our Spanish operations' cement export volumes, which represented approximately 1% of our Spanish cement sales volumes in 2007, decreased approximately 28% in 2007 compared to 2006, primarily due to decreases in African and United States demand. Of our Spanish operations' total cement export volumes in 2007, 36% was shipped to Europe and the Middle East, 46% to Africa, and 18% to the United States. Our Spanish operations' average domestic sales price of cement increased approximately 9% in Euro terms in 2007 compared to 2006, and the average price of ready-mix concrete increased approximately 7% in Euro terms over the same period. For the year ended December 31, 2007, cement represented approximately 52%, ready-mix concrete represented approximately 22% and our other business represented approximately 26% of our Spanish operations' net sales before eliminations resulting from consolidation.

As a result of the increases in average domestic sales prices of cement and ready-mix concrete, partially offset by the decreases in domestic cement and ready-mix concrete sales volumes and the decline in cement export volumes, net sales in Spain, in Euro terms, increased approximately 4% (increased approximately 9% in constant Peso terms) in 2007 compared to 2006.

United Kingdom

Our United Kingdom operations' domestic cement sales volumes increased approximately 12% in 2007 compared to 2006, and ready-mix concrete sales volumes decreased approximately 2% during the same period. The increases in domestic cement sales volumes were primarily driven by infrastructure projects relating to industrial, commercial and residential construction. Our United Kingdom operations' net sales for the year ended December 31, 2007 represented approximately 9% of our net sales in constant Peso terms, before eliminations resulting from consolidation. Our United Kingdom operations' average domestic sales price of cement increased approximately 8% in British pounds sterling terms in 2007 compared to 2006, and the average price of ready-mix concrete increased approximately 4% in British pounds sterling terms over the same period. For the year ended December 31, 2007, cement represented approximately 15%, ready-mix concrete represented approximately 31% and our aggregates and other business represented approximately 54% of our United Kingdom operations' net sales before eliminations resulting from consolidation.

The decrease in ready-mix concrete sales volumes were offset by the increases in domestic cement sales volumes and the average sales prices of domestic cement and ready-mix concrete, and, as a result, net sales from our United Kingdom operations in British sterling pounds remained flat (decreased approximately 6% in constant Peso terms) in 2007 compared to 2006.

Rest of Europe

Our operations in our Rest of Europe segment in 2007 consisted of our operations in Germany, France, Croatia, Poland, Latvia, the Czech Republic, Ireland, Italy, Austria, Hungary, Portugal, Denmark, Finland, Norway and Sweden. Our Rest of Europe operations' net sales for the year ended December 31, 2007 represented approximately 19% of our total net sales in constant Peso terms, before eliminations resulting from consolidation. Domestic cement sales volumes in the Rest of Europe region increased approximately 5% in 2007 compared to 2006, while ready-mix concrete sales volumes remained flat during the same period. The increase in domestic cement sales volumes was primarily attributable to the increase in demand in most of our Rest of Europe operations, mainly in Croatia, Poland and France.

As a result of the increase in domestic cement sales volumes, our Rest of Europe operations' net sales, in Euro terms, increased approximately 4% in 2007 compared to 2006. Our Rest of Europe operations' average domestic sales price of cement increased approximately 15% in Euro terms in 2007 compared to 2006, and the average price of ready-mix concrete increased approximately 5% in Euro terms over the same period. For the year ended December 31, 2007, cement represented approximately 23%, ready-mix concrete represented approximately 47% and our other business represented approximately 30% of our Rest of Europe operations' net sales before eliminations resulting from consolidation. Set forth below is a discussion of sales volumes and average prices in Germany and France, the most significant countries in our Rest of Europe segment, based on net sales.

In Germany, domestic cement sales volumes decreased approximately 6% in 2007 compared to 2006, and ready-mix concrete sales volumes decreased approximately 9% during the same period. These decreases were primarily due to a decline in the residential sector, partially offset by increased activity in the non-residential and civil engineering sectors. Our German operations' average domestic sales price of cement increased approximately 9% in Euro terms in 2007 compared to 2006, and the average price of ready-mix concrete increased approximately 1% in Euro terms over the same period. As a result of the decreases in domestic cement and ready-mix concrete sales volumes, which were partially offset by increases in domestic cement and ready-mix concrete sales prices, net sales in Germany, in Euro terms, decreased approximately 3% in 2007 compared to 2006.

In France, ready-mix concrete sales volumes increased approximately 5% in 2007 compared to 2006, primarily driven by the infrastructure sector, which showed strong activity in anticipation of local elections in 2008, and to a lesser extent, the non-residential sector. Our French operations' average ready-mix concrete sales price increased approximately 4% in Euro terms in 2007 compared to 2006. As a result of the increase in ready-mix concrete sales volumes and sales prices, net sales in France, in Euro terms, increased approximately 7% in 2007 compared to 2006.

For the reasons mentioned above, net sales before eliminations resulting from consolidation in our Rest of Europe operations, in Euro terms, increased approximately 4% (increased approximately 5% in constant Peso terms) in 2007 compared to 2006.

South America, Central America and the Caribbean

Our operations in South America, Central America and the Caribbean in 2007 consisted of our operations in Venezuela, Colombia, Costa Rica, the Dominican Republic, Panama, Nicaragua, Puerto Rico, Jamaica and Argentina, as well as several cement terminals and other assets in other Caribbean countries and our trading operations in the Caribbean region. Most of these trading operations consist of the resale in the Caribbean region of cement produced by our operations in Venezuela and Mexico.

Our South America, Central America and the Caribbean operations' domestic cement sales volumes increased 8% in 2007 compared to 2006, and ready-mix concrete sales volumes increased 13% over the same period. The increases in sales volumes were primarily attributable to increased sales volumes in our Venezuelan and Colombian operations described below, as well as increased sales volumes in most of our markets in Central

America and the Caribbean. Our South America, Central America and the Caribbean operations' average domestic sales price of cement increased approximately 20% in Dollar terms in 2007 compared to 2006, while the average sales price of ready-mix concrete also increased approximately 20% in Dollar terms over the same period. For the year ended December 31, 2007, our South America, Central America and the Caribbean operations represented approximately 9% of our total net sales in constant Peso terms, before eliminations resulting from consolidation. As a result of the increases in domestic cement and ready-mix concrete sales volumes and the average sales prices of domestic cement and ready-mix concrete, net sales in our South America, Central America and the Caribbean operations, in Dollar terms, increased approximately 28% in 2007 compared to 2006. For the year ended December 31, 2007, cement represented approximately 65%, ready-mix concrete approximately 25% and our other businesses approximately 10% of our South America, Central America and the Caribbean operations' net sales before eliminations resulting from consolidation. Set forth below is a discussion of sales volumes in Venezuela and Colombia, the most significant countries during these years in our South America, Central America and the Caribbean segment, based on net sales.

Our Venezuelan operations' domestic cement sales volumes increased approximately 16% in 2007 compared to 2006, and ready-mix concrete sales volumes increased approximately 10% during the same period. The increases in volumes resulted primarily from increased demand in the public sector and the self-construction sector. For the year ended December 31, 2007, Venezuela represented approximately 3% of our total net sales in constant Peso terms, before eliminations resulting from consolidation. Our Venezuelan operations' cement export volumes, which represented approximately 12% of our Venezuelan cement sales volumes in 2007, decreased approximately 51% in 2007 compared to 2006 primarily due to increased domestic demand. Of our Venezuelan operations' total cement export volumes during 2007, 9% was shipped to North America and 91% to South America and the Caribbean. Our Venezuelan operations' average domestic sales price of cement increased approximately 5% in Bolivar terms in 2007 compared to 2006, and the average sales price of ready-mix concrete increased approximately 26% in Bolivar terms over the same period. As a result of the increases in domestic cement and ready-mix concrete sales volumes and the increase in the average domestic cement and ready-mix concrete sales prices, despite the decrease in cement exports, net sales, of our Venezuelan operations, in Bolivar terms, before eliminations resulting from consolidation, increased approximately 22% (increased approximately 18% in constant Peso terms) in 2007 compared to 2006. For the year ended December 31, 2007, cement represented approximately 65%, ready-mix concrete approximately 28% and our other businesses approximately 7% of our Venezuelan operations' net sales before eliminations resulting from consolidation. In furtherance of Venezuela's announced policy to nationalize certain sectors of the economy, on June 18, 2008, the Nationalization Decree was promulgated, mandating that the cement production industry in Venezuela be reserved to the State and ordering the conversion of foreign-owned cement companies, including CEMEX Venezuela, into state-controlled companies with Venezuela holding an equity interest of at least 60%. See "Item 4 — Information on the Company — Business Overview — Regulatory Matters and Legal Proceedings — Nationalization of CEMEX Venezuela and ICSID Arbitration."

Our Colombian operations' cement volumes increased approximately 19% in 2007 compared to 2006, and ready-mix concrete sales volumes increased approximately 24% during the same period. The increases in sales volumes resulted primarily from increased demand in the infrastructure, self-construction and industrial sectors as a result of economic growth in Colombia. For the year ended December 31, 2007, Colombia represented approximately 2% of our total net sales in constant Peso terms, before eliminations resulting from consolidation. Our Colombian operations' average domestic sales price of cement increased approximately 17% in Colombian Peso terms in 2007 compared to 2006, and the average price of ready-mix concrete increased approximately 12% in Colombian Peso terms over the same period. As a result of the increase in the average domestic sales prices of cement and ready-mix concrete and the increase in domestic cement and ready-mix concrete sales volumes, net sales of our Colombian operations, in Colombian Peso terms, increased approximately 38% (increased approximately 43% in constant Peso terms) in 2007 compared to 2006. For the year ended December 31, 2007, cement represented approximately 53%, ready-mix concrete approximately 27% and our other businesses approximately 20% of our Colombian operations' net sales before eliminations resulting from consolidation.

Our Rest of South and Central America and the Caribbean operations' domestic cement volumes decreased approximately 3% in 2007 compared to 2006, and ready-mix concrete sales volumes increased approximately 7% during the same period. For the year ended December 31, 2007, the Rest of South and Central America and the Caribbean represented approximately 4% of our total net sales in constant Peso terms, before eliminations resulting from consolidation. Our Rest of South and Central America and the Caribbean operations' average domestic sales

price of cement increased approximately 23% in Dollar terms in 2007 compared to 2006, and the average sales price of ready-mix concrete increased approximately 11% in Dollar terms over the same period. As a result of the increase in the ready-mix concrete sales volumes and the increases in the average domestic cement and ready-mix concrete sales prices, net sales, of our Rest of South and Central America and the Caribbean operations, in Dollar terms, before eliminations resulting from consolidation, increased approximately 22% (increased approximately 19% in constant Peso terms) in 2007 compared to 2006, despite the decrease in domestic cement sales volumes. For the year ended December 31, 2007, cement represented approximately 72%, ready-mix concrete approximately 23% and our other businesses approximately 5%, of our Rest of South and Central America and the Caribbean operations' net sales before eliminations resulting from consolidation.

As a result of the increases in domestic cement and ready-mix concrete sales volumes, and the average sales prices of domestic cement and ready-mix concrete, net sales in our South America, Central America and the Caribbean operations, in Dollar terms, increased approximately 28% (increased approximately 24% in constant Peso terms) in 2007 compared to 2006, despite a decrease in our Venezuelan operations' cement export volumes.

Africa and the Middle East

Our operations in Africa and the Middle East consist of our operations in Egypt, the United Arab Emirates (UAE) and Israel. Our Africa and the Middle East operations' domestic cement sales volumes increased approximately 8% in 2007 compared to 2006, and ready-mix concrete sales volumes remained flat during the same period. The increase in domestic cement sales volumes mainly was driven by the increased demand in Egypt described below. For the year ended December 31, 2007, Africa and the Middle East represented approximately 3% of our total net sales in constant Peso terms, before eliminations resulting from consolidation. Our Africa and the Middle East operations' average domestic sales price of cement increased approximately 11% in Dollar terms in 2007 compared to 2006, and the average domestic sales price of ready-mix concrete increased approximately 13% in Dollar terms over the same period. For the year ended December 31, 2007, cement represented approximately 40%, ready-mix concrete approximately 51% and our other businesses approximately 9% of our Africa and the Middle East operations' net sales before eliminations resulting from consolidation.

Our Egyptian operations' domestic cement sales volumes increased approximately 8% in 2007 compared to 2006, and ready-mix concrete sales volumes increased approximately 16% during the same period. The increases in sales volumes resulted primarily from the favorable economic environment in Egypt, mainly in the residential sector. For the year ended December 31, 2007, Egypt represented approximately 1% of our total net sales in constant Peso terms, before eliminations resulting from consolidation. The average domestic sales price of cement increased approximately 9% in Egyptian pound terms in 2007 compared to 2006, and the average domestic sales price of ready-mix concrete increased approximately 14% in Egyptian pound terms. During 2007 our Egyptian operations did not export any cement as production was directed to meet increased domestic demand. As a result of the increases in domestic cement and ready-mix concrete sales volumes and average prices, net sales of our Egyptian operations, in Egyptian pound terms, increased approximately 10% in 2007 compared to 2006. For the year ended December 31, 2007, cement represented approximately 91%, ready-mix concrete approximately 8% and our other businesses approximately 1% of our Egyptian operations' net sales before eliminations resulting from consolidation.

Our operations in Rest of Africa and the Middle East consist of the ready-mix concrete operations in the UAE and Israel. Our Rest of Africa and the Middle East operations' ready-mix concrete sales volumes decreased approximately 2% in 2007 compared to 2006, and the average ready-mix concrete sales price increased approximately 13%, in Dollar terms, in 2007 compared to 2006. For the year ended December 31, 2007, the UAE and Israel represented approximately 2% of our total net sales in constant Peso terms, before eliminations resulting from consolidation. As a result of the increase in the ready-mix concrete average sales price, net sales of our Rest of Africa and the Middle East operations, in Dollar terms, increased approximately 3% (decreased approximately 3% in constant Peso terms) in 2007 compared to 2006. For the year ended December 31, 2007, ready-mix concrete represented approximately 84% and our other businesses approximately 16% of our UAE and Israel operations' net sales before eliminations resulting from consolidation.

As a result of the increases in domestic cement and ready-mix sales volumes and the average domestic sales prices of cement and ready-mix in our Egyptian operations, net sales before eliminations resulting from consolidation in our Africa and the Middle East operations, in Dollar terms, increased approximately 7% (remained flat in constant Peso terms) in 2007 compared to 2006, despite the decline in cement export volumes of our Egyptian operations and the decrease in the average ready-mix concrete sales price in our Rest of Africa and the Middle East operations.

Australia and Asia

Our operations in Australia and Asia consist of (i) Rinker's Australian operations, which are consolidated in our results of operations for the six-month period ended December 31, 2007 (CEMEX did not have operations in Australia prior to the acquisition of Rinker), and (ii) our operations in the Philippines, Thailand, Bangladesh, Taiwan, Malaysia, and the operations we acquired from Rinker in China, which are also consolidated in our results of operations for the six-month period ended December 31, 2007. Our Australian and Asian operations' domestic cement sales volumes increased approximately 7% in 2007 compared to 2006, primarily due to increased demand in the Philippines discussed below, and an increase of approximately 15%, in Dollar terms, in the average domestic sales price of cement in the region during the same period. Our Australian and Asian operations' ready-mix concrete sales volumes increased significantly by 297% in 2007 compared to 2006, primarily due to the consolidation of our Australian operations acquired from Rinker for the six-month period ended December 31, 2007. The average sales price of ready-mix concrete in our Australian and Asian operations increased significantly, by approximately 181% in Dollar terms in 2007 compared to 2006, primarily as a result of the inclusion of Australia in these operations. Approximately 96% of the increase in ready-mix concrete sales volumes in our Australia and Asia operations during 2007 compared to 2006 resulted from the consolidation of our Australian operations acquired from Rinker for the six-month period ended December 31, 2007.

For the year ended December 31, 2007, Australia and Asia represented approximately 5% of our total net sales in constant Peso terms, before eliminations resulting from consolidation. Our Asian operations' cement export volumes, which represented approximately 22% of our Asian operations' cement sales volumes in 2007, decreased approximately 9% in 2007 compared to 2006 primarily due to a decrease in our exports to Africa. Of our Asian operations' total cement export volumes during 2007, approximately 96% was shipped to Europe and 4% to the Southeast Asia region. For the year ended December 31, 2007, cement represented approximately 25%, ready-mix concrete approximately 40% and our other businesses approximately 35% of our Australian and Asian operations' net sales before eliminations resulting from consolidation.

Through the Rinker acquisition, we acquired additional operations in Australia, which had a significant impact on our Australian and Asian operations. We did not have operations in Australia prior to the acquisition of Rinker. The discussion below regarding the Australian ready-mix concrete operations in 2006 and from January 2007 to June 2007 represent operating data for those operations prior to our acquisition of Rinker.

Our Australian operations' net sales for the year ended December 31, 2007 represented approximately 3% of our total net sales in constant Peso terms, before eliminations resulting from consolidation. Our Australian operations' ready-mix concrete sales volumes represented 4% in 2007 of our total ready-mix concrete sales volumes. The main drivers of ready-mix concrete demand in Australia are the commercial and civil construction sectors. For the year ended December 31, 2007, ready-mix concrete represented approximately 51%, aggregates represented approximately 33% and our other businesses approximately 16% of our Australian operations' net sales before eliminations resulting from consolidation.

Our Philippines operations' domestic cement volumes increased approximately 12% in 2007 compared to 2006. For the year ended December 31, 2007, the Philippines represented approximately 1% of our total net sales in constant Peso terms, before eliminations resulting from consolidation. Our Philippines operations' average domestic sales price of cement increased approximately 5% in Philippine Peso terms in 2007 compared to 2006. As a result of the increases in the average domestic sales price of cement and sales volumes, net sales of our Philippines operations, in Philippine Peso terms, increased approximately 8% (increased approximately 21% in constant Peso terms) in 2007 compared to 2006. For the year ended December 31, 2007, cement represented 100% of our Philippine operations' net sales before eliminations resulting from consolidation.

Our Rest of Asia operations' ready-mix concrete sales volumes, which include our Malaysian operations (representing nearly all our ready-mix concrete sales volumes in the Rest of Asia region) increased approximately 11% in 2007 compared to 2006. The average sales price of ready-mix concrete increased approximately 10%, in

Dollar terms, during 2007. For the reasons mentioned above, net sales of our Rest of Asia operations, in Dollar terms, increased approximately 24% (increased approximately 22% in constant Peso terms), in 2007 compared to 2006. For the year ended December 31, 2007, cement represented approximately 34%, ready-mix concrete approximately 48% and our other businesses approximately 19% of our Rest of Asia operations' net sales before eliminations resulting from consolidation.

For the reasons described above, our Australian and Asian operations' net sales, in Dollar terms, increased significantly by approximately 263% (increased approximately 222% in constant Peso terms) in 2007 compared to 2006. Approximately 89% of the increase in net sales in our Australian and Asian operations during 2007 compared to 2006 resulted from the consolidation of our Australian operations acquired from Rinker for the six-month period ended December 31, 2007.

Others

Our Others segment includes our worldwide cement, clinker and slag trading operations, our information solutions company and other minor subsidiaries. Net sales, in our Others segment before eliminations resulting from consolidation, decreased approximately 11% in 2007 compared to 2006 in constant Peso terms (decreased approximately 5% in Dollar terms), primarily as a result of a 21% decrease in our trading operations' net sales in 2007 compared to 2006, reflecting the decrease of demand for cement in the United States. For the year ended December 31, 2007, our trading operations' net sales represented approximately 53% of our Others segment's net sales.

Cost of Sales. Our cost of sales, including depreciation, increased approximately 16% from Ps136,447 million in 2006 to Ps157,696 million in 2007 in constant Peso terms. Approximately 91% of the increase was attributable to the consolidation of Rinker's operations for the last six months of 2007. On a pro forma basis excluding the consolidation of Rinker's operations for six months in 2007, our cost of sales would have increased by approximately 1% in 2007 as compared to the previous year, primarily due to higher energy, electricity and transportation costs. As a percentage of net sales, cost of sales, including Rinker's operations for the last six months of 2007, increased from 64% in 2006 to 67% in 2007. The increase in cost of sales as a percentage of net sales was primarily due to the consolidation of Rinker, which changed our product mix since we had a higher percentage of sales of ready-mix concrete, aggregates and other products having a higher cost of sales and a lower profit margin as compared to cement.

Gross Profit. Our gross profit increased approximately 2% from Ps77,320 million in 2006 to Ps78,973 million in 2007 in constant Peso terms. All of the increase in our gross profit during 2007 compared to 2006, in constant Peso terms, resulted from the consolidation of Rinker's operations for six months during 2007 compared to 2006. On a pro forma basis excluding the consolidation of Rinker's operations for the last six months of 2007, our gross profit would have decreased by approximately 6% in 2007 as compared to the previous year, mainly as a result of the reduction in net sales and the increase in cost of sales discussed above. For the reasons explained above, including Rinker's operations for the last six months of 2007, our gross margin decreased from 36% in 2006 to 33% in 2007.

Operating Expenses. Our operating expenses increased approximately 9% from Ps42,815 million in 2006 to Ps46,525 million in 2007 in constant Peso terms. Approximately 88% of the increase was attributable to the consolidation of Rinker's operations for the last six months of 2007. On a pro forma basis excluding the consolidation of Rinker's operations for the last six months of 2007, our operating expenses would have increased by approximately 1% in 2007 as compared to the previous year. As a percentage of net sales, our operating expenses remained flat in 2007 compared to 2006.

Operating Income. For the reasons mentioned previously, our operating income decreased approximately 6% from Ps34,505 million in 2006 to Ps32,448 million in 2007 in constant Peso terms. On a pro forma basis excluding the consolidation of Rinker's operations for the last six months of 2007, our operating income would have decreased by approximately 14% in 2007 as compared to the previous year. As a percentage of net sales, operating income decreased from 16% in 2006 to 14% in 2007. Additionally, set forth below is a quantitative and qualitative analysis of the effects of the various factors affecting our operating income on a geographic segment basis.

Mexico

Our Mexican operations' operating income decreased approximately 5% (increased approximately 3% in nominal Peso terms) from Ps13,210 million in 2006 to Ps12,549 million in 2007 in constant Peso terms. The decrease in operating income was primarily due to increases in production cost and operating cost, coupled by decreases in the average prices of domestic cement and the decrease in our Mexican exports. The increases in production cost and operating cost were partially offset by increases in domestic cement and ready-mix concrete sales volumes and the average sales price of ready-mix concrete. As a percentage of net sales, in constant Peso terms, our operating margin decreased from 31% in 2006 to 30% in 2007.

United States

Our U.S. operations' operating income decreased approximately 41% from Ps10,092 million in 2006 to Ps5,966 million in 2007 in constant Peso terms (decreased approximately 31% in Dollar terms). The decrease in operating income resulted primarily from the decrease in domestic cement sales volumes, partially offset by the consolidation of Rinker's U.S. operations for the last six months of 2007 (representing approximately 17% of our U.S. operations' operating income for the full year).

Spain

Our Spanish operations' operating income increased approximately 7% (increased approximately 4% in Euro terms) from Ps5,637 million in 2006 to Ps6,028 million in 2007 in constant Peso terms. The increase in operating income resulted primarily from the increases in the average domestic cement and ready-mix concrete sales prices. This increase was partially offset by decreases in domestic cement and ready-mix concrete sales volumes and by a decrease in exports.

United Kingdom

Our United Kingdom operations' operating income decreased significantly from an income of Ps154 million in 2006 to a loss of Ps446 million in 2007 in constant Peso terms (decreased approximately £27 million in British Pounds terms). The decrease in operating income resulted primarily from an increase in variable cost of sales driven by the increase in cost of fuels and electric power due to increases in international oil prices. The decrease was partially offset by increases in domestic cement sales volumes and the average sales prices of domestic cement and ready-mix concrete.

Rest of Europe

Our Rest of Europe operations' operating income increased approximately 48% from Ps2,220 million in 2006 to Ps3,281 million in 2007 in constant Peso terms (increased approximately 22% in Euro terms). The increase in operating income resulted primarily from the increase in domestic cement and ready-mix concrete sales prices in most of our markets as well as increased domestic cement sales volumes. These increases were partially offset by a decrease in our operating margin in our German operations.

South America, Central America and the Caribbean

Our South America, Central America and the Caribbean operations' operating income increased approximately 40% from Ps4,259 million in 2006 to Ps5,983 million in 2007 in constant Peso terms (increased approximately 51% in Dollar terms). The increase in operating income was primarily attributable to the significant increase in domestic cement and ready-mix concrete sales prices and volumes in our Colombian and Venezuelan operations as well as price and volume increases in our Dominican Republic operations. Approximately 53% of the increase in Dollar terms in our South America, Central America and the Caribbean operations was due to the increase in operating income in our Colombian operations.

Africa and the Middle East

Our Africa and the Middle East operations' operating income decreased approximately 7% from Ps1,595 million in 2006 to Ps1,483 million in 2007 in constant Peso terms (increased approximately 3% in Dollar terms). The increase in operating income in Dollar terms resulted primarily from the increase in our operating income in Egypt due to a better price environment and the increases in domestic cement and ready-mix concrete sales volumes. These increases were partially offset by a decrease in our operating income in our UAE operations.

Australia and Asia

Our Australian and Asian operations' operating income increased significantly by approximately 210% from Ps664 million in 2006 to Ps2,061 million in 2007 in constant Peso terms. The increase in operating income resulted primarily from our operations in Australia, which are consolidated in our results of operations for the six-month period ended December 31, 2007 (representing approximately 57% of our Australian and Asian operations' operating income for the year ended December 31, 2007). We did not have operations in Australia prior the acquisition of Rinker. These increases were complemented by an approximately 33% increase in our Asian operations' operating income, from Ps664 million in 2006 to Ps884 million in 2007 in constant Peso terms.

Others

Operating loss in our Others segment increased approximately 34% from an operating loss of Ps3,326 million in 2006 to an operating loss of Ps4,457 million in 2007 in constant Peso terms (increased approximately 32% in Dollar terms). The increase in operating loss was primarily attributable to the decrease in our trading operations' net sales in 2007 compared to 2006, reflecting the decrease in construction market demand for imported cement in the United States.

Other Expenses, Net. Our other expenses, net, increased significantly, from Ps580 million in 2006 to Ps3,281 million in 2007 in constant Peso terms, primarily as a result of (i) lower gains on the sale of fixed assets, which decreased by approximately Ps650 million during 2007 as compared to the previous year, (ii) the one-time benefit in 2006 from the reversal of the anti-dumping duties accrual following the agreement entered into between the Mexican and U.S. governments that lowered the antidumping duties on Mexican cement imports into the United States beginning April 2006, which represented a gain of Ps1,839 million and (iii) additional amortization expense from customer-related intangibles during 2007 for approximately Ps156 million that arose from the acquisition of Rinker. See notes 11 and 21B to our consolidated financial statements included elsewhere in this annual report. As a percentage of net sales, other expense, net, increased from 0.3% in 2006 to 1.4% in 2007.

Commencing on January 1, 2007, current and deferred Employees' Statutory Profit Sharing ("ESPS") is included in this line item. Until December 31, 2006, ESPS was presented in a specific line item within the income taxes section of the income statement. For the years ended December 31, 2006 and 2007, our other expenses, net includes aggregate current and deferred ESPS expenses of approximately Ps180 million and Ps246 million, respectively. The increase in ESPS in 2007 compared to 2006 was mainly driven by higher taxable income for profit sharing purposes in Mexico and Venezuela.

Comprehensive Financing Result. For the periods presented, pursuant to MFRS, the comprehensive financing result should measure the real cost (gain) of an entity's financing, net of the foreign currency fluctuations and the inflationary effects on monetary assets and liabilities. In periods of high inflation or currency depreciation, significant volatility may arise and is reflected under this caption. For presentation purposes, the comprehensive financing result includes:

- financial or interest expense on borrowed funds;
- financial income on cash and temporary investments;

- appreciation or depreciation resulting from the valuation of financial instruments, including derivative instruments and marketable securities, as well as the realized gain or loss from the sale or liquidation of such instruments or securities;
- foreign exchange gains or losses associated with monetary assets and liabilities denominated in foreign currencies; and
- gains and losses resulting from having monetary liabilities or assets exposed to inflation (monetary position result).

	Year Ended December 31,	
	2006	2007
	(in millions of constant Pesos as of December 31, 2007)	
Comprehensive financing result:		
Financial expense	(5,785)	(8,809)
Financial income	536	862
Results from financial instruments	(161)	2,387
Foreign exchange result	238	(243)
Monetary position result	4,667	6,890
Net comprehensive financing result	(505)	1,087

Our net comprehensive financing result increased substantially, from a loss of Ps505 million in 2006 to an income of Ps1,087 million in 2007. The components of the change are shown above. Our financial expense was Ps8,809 million for 2007, an increase of approximately 52% from Ps5,785 million in 2006. The increase was primarily attributable to higher average levels of debt outstanding during 2007 compared to 2006 as a result of borrowings related to the Rinker acquisition. Our financial income increased approximately 61% from Ps536 million in 2006 to Ps862 million in 2007 as a result of higher levels of cash and investments in 2007 compared with 2006 in connection with the funding of the Rinker acquisition. Our results from financial instruments improved substantially from a loss of Ps161 million in 2006 to a gain of Ps2,387 million in 2007, primarily attributable to significant valuation changes in our derivative financial instruments portfolio during 2007 compared to 2006 (discussed below). Our foreign exchange result declined from a gain of Ps238 million in 2006 to a loss of Ps243 million in 2007, mainly due to the appreciation of the Euro and the Pound Sterling against the Dollar. Our monetary position result (generated by the recognition of inflation effects over monetary assets and liabilities) increased from Ps4,667 million during 2006 to Ps6,890 million during 2007, as a result of an increase in our monetary liabilities in 2007 compared to 2006, mainly due to the debt incurred to fund the Rinker acquisition.

Derivative Financial Instruments. For the years ended December 31, 2006 and 2007, our derivative financial instruments that had a potential impact on our comprehensive financing result consisted of foreign exchange derivative instruments (excluding our foreign exchange forward contracts designated as hedges of our net investment in foreign subsidiaries), interest rate swaps, cross-currency swaps (including our derivative instruments related to the issuance of perpetual debentures by consolidated entities as dicussed in note 12E to our financial statements included elsewhere in this annual report), and interest rate derivatives related to energy projects.

For the year ended December 31, 2007, we had a net gain of approximately Ps2,387 million in the item “Results from financial instruments” as compared to a net loss of Ps161 in 2006. The gain in 2007 was mainly attributable to a net valuation gain of approximately Ps2,621 million in connection to changes in the fair value of our cross-currency swaps related to our perpetual debentures, exchanging Dollars for Japanese Yen, and a valuation gain of approximately Ps186 million related to changes in the fair value of other financial instruments, mainly equity forward contracts and marketable securities. These net gains were partially offset by a net valuation of approximately Ps182 million corresponding to our debt-related cross-currency swaps and our foreign exchange options, and a valuation loss of approximately Ps238 million which was attributable to changes in the fair value of our interest rate derivatives. The decline in our debt-related cross-currency swaps is primarily attributable to the devaluation of the Dollar against the Euro. The estimated fair value gain of the cross-currency swaps associated with our perpetual debentures was primarily attributable to the decrease in the ten-year Yen interest rate. The estimated fair value loss of the interest rate derivatives was primarily attributable to the decrease in the five-year interest rates in Euros and Dollars.

Income Taxes. Our effective tax rate decreased from 16.3% in 2006 to 15.1% in 2007. Our tax expense, which primarily consisted of income taxes, decreased 16% from Ps5,698 million in 2006 to Ps4,796 million in 2007. The decrease was attributable to lower taxable income in 2007 as compared to 2006, complemented by a decrease in our statutory income tax rate. Our average statutory income tax rate was approximately 29% in 2006 and approximately 28% in 2007.

Majority Interest Net Income. Majority interest net income represents the difference between our consolidated net income and minority interest net income, which is the portion of our consolidated net income attributable to those of our subsidiaries in which non-affiliated third parties hold interests. Changes in minority interest net income in any period reflect changes in the percentage of the stock of our subsidiaries held by non-affiliated third parties as of the end of each month during the relevant period, and consolidated net income attributable to those subsidiaries.

For the reasons described above, our consolidated net income (before deducting the portion allocable to minority interest) for 2007 decreased approximately Ps2,202 million, or 8%, from Ps29,147 million in 2006 to Ps26,945 million in 2007 in constant Peso terms. The decrease in our consolidated net income was partially offset by the consolidation of Rinker's operations for six months during 2007 compared to 2006, which represented approximately 6% of our consolidated net income in 2007. Excluding the effect of the consolidation of Rinker's operations, our consolidated net income (before deducting the portion allocable to minority interest) decreased approximately 13% during the same period. As a percentage of net sales, consolidated net income decreased from 14% in 2006 to 11% in 2007.

Minority interest net income decreased approximately 35% from Ps1,292 million in 2006 to Ps837 million in 2007, in constant Peso terms, mainly as a result of a decrease in the total net income of the consolidated entities in which others have a minority interest. The percentage of our consolidated net income allocable to minority interests decreased from 4% in 2006 to 3% in 2007. Majority interest net income decreased by approximately 6% from Ps27,855 million in 2006 to Ps26,108 million in 2007, in constant Peso terms. As a percentage of net sales, majority interest net income decreased from 13% in 2006 to 11% in 2007.

Liquidity and Capital Resources

Operating Activities

We have satisfied our operating liquidity needs primarily through operations of our subsidiaries and expect to continue to do so for both the short and long term. Although cash flow from our operations has historically overall met our liquidity needs for operations, by servicing debt and funding capital expenditures and acquisitions, our subsidiaries are exposed to risks from changes in foreign currency exchange rates, price and currency controls, interest rates, inflation, governmental spending, social instability and other political, economic and/or social developments in the countries in which they operate, any one of which may materially reduce our net income and cash from operations. Consequently, we also rely on cost-cutting and operating improvements to optimize capacity utilization and maximize profitability. Our consolidated net resources provided by operating activities were approximately Ps47.8 billion in 2006 and approximately Ps45.6 billion in 2007; see our Statement of Changes in the Financial Position included elsewhere in this annual report. Our consolidated net cash flows provided by operating activities were approximately Ps31.3 billion in 2008; see our Statement of Cash Flows included elsewhere in this annual report. In light of the global financial crisis and downturn in the construction industry affecting most of our markets, we currently do not expect cash flow from operations after working capital and investment needs, to be sufficient to cover our maturing debt payment obligations in 2009.

Sources and Uses of Cash

Beginning in 2008, the new MFRS B-2, Statement of Cash Flows ("MFRS B-2"), establishes the incorporation of a new cash flow statement, included elsewhere in this annual report, which presents cash inflows and outflows in nominal currency as part of the basic financial statements, replacing the statement of changes in financial position, which included inflation effects and foreign exchange effects not realized. Considering transition

rules under MFRS B-2, only the cash flow statement is presented for the period 2008, and the statements of changes in financial position, included elsewhere in this annual report, for the years ended December 31, 2007 and 2006, originally reported as of each year, are presented in constant Pesos as of December 31, 2007.

As a result, our review of sources and uses of resources presented below for 2008 refers to nominal amounts included in our statement of cash flows for 2008, while our review for 2007 and 2006 refers to constant Peso amounts as of December 31, 2007 included in our statements of changes in the financial position at the end of each year, as applicable.

Our primary sources and uses of cash during the years ended December 31, 2006, 2007 and 2008 were as follows:

	2008
Operating activities	
Majority interest net income	Ps2,278
Non-cash items	41,327
Changes in working capital, excluding financial expense and income taxes	1,243
Net cash flows provided by operating activities before interest expense and income taxes	44,848
Financial expense paid in cash	(9,951)
Income taxes paid in cash	(3,625)
Net cash flows provided by operating activities	31,272
Investing activities	
Property, machinery and equipment, net	(21,248)
Disposal of subsidiaries and associates, net	10,845
Investment derivatives	2,856
Other investments	(4,227)
Net cash flows used in investing activities	(11,774)
Financing activities	
Repayment of debt, net	(3,710)
Issuance of perpetual debentures, net of interest paid	(1,801)
Issuance of common stock	6,794
Dividends paid	(7,009)
Financing derivatives	(12,765)
Non-current liabilities, net	1,897
Net cash flows used in financing activities	(16,594)
Conversion Effects	2,030
Increase in cash and cash equivalents	4,934
Cash and cash equivalents at beginning of year	8,670
Cash and cash equivalents at end of year	Ps13,604

	2007	2006
Operating activities		
Majority interest net income	Ps26,108	27,855
Non-cash items	17,804	16,705
Net change in working capital	1,713	3,285
Net resources provided by operating activities	45,625	47,845
Investing activities		
Capital expenditures, net of disposals	(21,779)	(16,067)
Disposal (acquisition) of subsidiaries and associates	(146,663)	2,958
Other investments and monetary foreign currency effect	(17,356)	(11,653)
Net resources used in investing activities	(185,798)	(24,762)
Financing activities		
Proceeds from debt (repayments), net, excluding debt assumed through business acquisitions	114,065	(31,235)
Issuance of perpetual debentures, net of interest paid	16,981	14,490
Issuance of common stock	6,399	5,976
Dividends paid	(6,636)	(6,226)
Other financing activities, net	(460)	4,855
Net resources provided by (used in) in financing activities	130,349	(12,140)
Increase (decrease) in cash and cash equivalents	(9,824)	10,943
Cash and cash equivalents at beginning of year	18,494	7,551
Cash and cash equivalents at end of year	Ps 8,670	18,494

2008. During 2008, in nominal Peso terms and including the positive foreign currency effect of our initial balances of cash and cash equivalents generated during the period of approximately Ps2,030 million, there was an increase in cash and cash equivalents of Ps4,934 million. This increase was generated by net cash flows provided by operating activities, which after financial interest and income taxes paid in cash of approximately Ps13,576 million, amounted to approximately Ps31,272 million, which was partially offset by net resources used in investing activities of approximately Ps11,774 million and by net resources used in financing activities for approximately Ps16,594 million.

For the year ended December 31, 2008, our net resources provided by operating activities included a net reduction in working capital of approximately Ps1,243 million which was mainly generated by decreases in trade receivables resulting from our securitization programs in Mexico and the U.S. and decreases in other accounts receivable and other assets for an aggregate amount of approximately Ps4,522 million, partially offset by increases in inventories and decreases in trade payables and other accounts payable and accrued expenses for an aggregate amount of approximately Ps3,279 million.

During 2008, our net resources used in financing activities of approximately Ps16,594 million included new borrowings of approximately Ps59,568 million, which in conjunction with net resources provided by operating activities and resources obtained from the sale of subsidiaries and affiliates of approximately Ps10,845 million, were disbursed mainly in connection with: a) debt repayments of approximately Ps63,278 million; b) net losses realized in derivative financial instruments for approximately Ps9,909 million; and c) capital expenditures for approximately Ps23,900 million.

The resources obtained from the sale of subsidiaries and affiliates for approximately Ps10,845 million principally consist of the sale of a 9.5% interest in Axtel, S.A.B. de C.V., the sale/contribution of assets to our associate, Ready Mix USA, LLC, the sale of our operations in the Canary Islands and the sale of our operations in Italy, all of which occurred in 2008 and are detailed in notes 8A and 10A to our consolidated financial statements included elsewhere in this annual report.

2007. As of December 31, 2007, in constant Peso terms as of the same date, there was a decrease in cash and cash equivalents of Ps9,824 million. This decrease was generated by net resources used in investing activities of approximately Ps185,798 million, which was partially offset by net resources provided by operating activities of approximately Ps45,625 million and net resources provided by financing activities of approximately Ps130,349 million.

For the year ended December 31, 2007, our net resources provided by operating activities included net resources from working capital of approximately Ps1,713 million which were mainly originated by decreases in trade receivables resulting from our securitization programs in Mexico and the U.S., decreases in other accounts receivable and other assets and increases in other accounts payable for an aggregate amount of approximately Ps3,464 million, partially offset by increases in inventories and decreases in trade payables for an aggregate amount of approximately Ps1,751 million.

During 2007, our net resources provided by financing activities for approximately Ps130,349 million included new borrowings for approximately Ps206,690 million and the issuance of perpetual debentures for approximately Ps18,828 million, which, in conjunction with net resources provided by operating activities, were disbursed mainly in connection with: a) the acquisition of Rinker Group Limited net of cash and cash equivalents as well as net of assets sold in December 2007 as required by the Department of Justice of the United States for approximately Ps169,502 million, including debt assumed of approximately Ps 13,943 million; b) debt repayments of approximately Ps84,412 million; and c) capital expenditures for approximately Ps22,289 million.

2006. As of December 31, 2006, in constant peso terms as of December 31, 2007, there was an increase in cash and cash equivalents of Ps10,943 million. This increase was generated by net resources provided by operating activities for approximately Ps47,845 million, which were partially offset by net resources used in financing activities for approximately Ps12,140 million and net resources used in investing activities for approximately Ps24,762 million.

For the year ended December 31, 2006, CEMEX's net resources provided by operating activities included net resources from working capital of approximately Ps3,285 million which were mainly originated by decreases in trade receivables resulting from CEMEX's securitization programs in Spain, France and the U.S., decreases in other accounts receivable and other assets and increases in trade payables for an aggregate amount of approximately Ps6,779 million, partially offset by increases in inventories and decreases in other accounts payable for an aggregate amount of approximately Ps3,494 million.

During 2006, CEMEX's net resources used in financing activities for approximately Ps12,140 million included new borrowings of approximately Ps37,199 million and the issuance of perpetual debentures of approximately Ps14,642 million, which, together with proceeds from the sale of CEMEX's 25.5% interest in the Indonesian cement producer PT Semen Gresik for approximately Ps4,053 million and net resources provided by operating activities, were disbursed mainly in connection with: a) debt repayments of approximately Ps63,182 million; and b) capital expenditures of approximately Ps18,044 million, while approximately Ps18,494 million were held in CEMEX's cash and temporary investments accounts in connection with the funding required for the acquisition of Rinker Group Limited, which took place in 2007.

Working Capital

We estimate a net investment in working capital of approximately Ps2,506 million during 2009, to be generated by an increase in trade receivables and a decrease in trade payables and other accounts payable and accrued expenses, which is expected to be partially offset by a decrease in inventories. Our estimates assume extension of our trade receivables securitization programs with scheduled maturity by the third quarter of 2009. See "Item 5 — Operating and Financial Review and Prospects — Liquidity and Capital Resources — Our Receivables Financing Arrangements."

Capital Expenditures

At December 31, 2008, in connection with our significant projects, we had contractually committed capital expenditures for approximately U.S.$957 million, including our base capital expenditures expected to be incurred during 2009. This amount is expected to be incurred over the next 2.5 years, according to the evolution of the related projects. Our capital expenditures incurred for the years ended December 31, 2007 and 2008 and our expected capital expenditures during 2009, which include an allocation to 2009 of a portion of our total future committed amount, are as follows:

(U.S. dollars in millions)	2007	2008	Estimated in 2009
North America(1)	U.S.$ 894	888	163
Europe(2)	723	790	285
Central and South America and the Caribbean(3)	169	171	104
Africa and the Middle East	87	85	29
Asia and Australia	57	90	31
Others(4)	111	129	38
Total consolidated	U.S.$2,041	2,153	650
Of which:			
Expansion capital expenditures(5)	U.S.$1,434	1,591	393
Base capital expenditures(6)	U.S.$ 607	562	257

(1) In North America, our estimated capital expenditures during 2009 include amounts related to the expansion of the Yaqui and Tepeaca plants in Mexico, and the expansion of the Balcones and Brooksville South plants.

(2) In Europe, our estimated capital expenditures during 2009 include amounts related to the construction of the new cement production facility in Teruel, Spain, the new grinding mill and blending facility at the Port of Tilbury in the United Kingdom and the expansion of our cement plants in Poland and Latvia.

(3) In Central and South America and the Caribbean, our estimated capital expenditures during 2009 include the construction of the new kiln in Panama.

(4) Our "Others" capital expenditures expected during 2009 include our trading activities as well as our corporate requirements.

(5) Expansion capital expenditures refer to the acquisition or construction of new assets intended to increase our current operating infrastructure and which are expected to generate additional amounts of operating cash flows.

(6) Base capital expenditures refer to the acquisition or construction of new assets that would replace portions of our operating infrastructure and which are expected to maintain our operating continuity.

As reflected in the prior table, during 2009, in response to the continued severe deterioration of the economic environment, we have substantially reduced our capital expenditures budget. See "Item 4 — Information on the Company — Business Overview — Our Business Strategy." We may revise our planned capital expenditures if conditions deteriorate further during 2009.

Our Indebtedness

As of December 31, 2008, we had approximately U.S.$19 billion (Ps258 billion) of total debt, of which approximately 15% was short-term and 85% was long-term (including current maturities of long-term debt). As of December 31, 2008, before giving effect to our cross-currency swap arrangements discussed elsewhere in this annual report, approximately 67% of our consolidated debt was Dollar-denominated, approximately 11% was Peso-denominated, approximately 19% was Euro-denominated, approximately 2% was Japanese Yen-denominated, and immaterial amounts were denominated in other currencies. The weighted average interest rates of our debt as of December 31, 2008 in our main currencies were 2.7% on our Dollar-denominated debt, 5.6% on our Peso-denominated debt, 4.1% on our Euro-denominated debt, and 1.6% on our Yen-denominated debt. The foregoing debt information does not include the perpetual instruments issued by C5 Capital (SPV) Limited, C8 Capital (SPV) Limited, C10 Capital (SPV) Limited and C10-EUR Capital (SPV) Limited in December 2006 and February and May 2007 described below. See "— Our Perpetual Debentures, which follows in this Item 5."

From time to time, as part of our financing activities, we and our subsidiaries have entered into various financing agreements, including bank loans, credit facilities, sale-leaseback transactions, forward contracts, forward lending facilities and equity swap transactions. Additionally, we and our subsidiaries have issued notes, commercial paper, bonds, preferred equity and putable capital securities.

Most of our outstanding indebtedness has been incurred to finance our acquisitions and to finance our capital expenditure programs. CEMEX México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., two of our principal Mexican subsidiaries, have provided guarantees of our indebtedness in the amount of approximately U.S.$6,396 million (Ps87,881 million) and U.S.$4,837 million (Ps66,460 million), respectively, as of December 31, 2008.

We have a substantial amount of debt maturing in the next several years. As of May 31, 2009, we had debt with an aggregate principal amount of approximately U.S.$4,284 million maturing during the rest of 2009, and U.S.$3,882 million and U.S.$7,845 million maturing in 2010 and 2011, respectively. See "Item 3 — Key Information — Risk Factors — We have substantial amounts of debt maturing in 2009 and each of the next several years, and a substantial amount of our debt is subject to the Conditional Waiver and Extension Agreement." We do not expect cash from operations to be sufficient to repay this indebtedness, and we expect to require other indebtedness, sale of assets and proceeds from equity offerings in order to finance these maturities.

We are currently in debt refinancing discussions with our lenders. See "— Recent Developments — Recent Developments Relating to Our Indebtedness." During the first quarter of 2009, we entered into a Conditional Waiver and Extension Agreement with a group of our bank lenders. The lenders party to the Conditional Waiver and

Extension Agreement have agreed to extend to July 31, 2009 scheduled principal payment obligations which were originally due between March 24, 2009 and July 31, 2009. We entered into the Conditional Waiver and Extension Agreement to give us time to negotiate a broader debt refinancing. As of June 26, 2009, principal payments in an aggregate principal amount of approximately U.S.$1,166 million have been extended under the Conditional Waiver and Extension Agreement.

Upon expiration of the Conditional Waiver and Extension Agreement (currently scheduled for July 31, 2009), the extended amounts will become immediately due and payable and the remaining amounts under the relevant facilities (in an aggregate principal amount of approximately U.S.$12,924 million as of June 26, 2009) will be capable of being accelerated by a vote of the requisite lenders under each relevant facility. Additionally, under the Conditional Waiver and Extension Agreement, a termination event may occur in a variety of situations that are not in our control. We cannot provide assurance that we will be able to enter into a refinancing plan to replace the Conditional Waiver and Extension Agreement prior to July 31, 2009 or to extend the Conditional Waiver and Extension Agreement to a later date. The unanimous consent of all lenders party to the Conditional Waiver and Extension Agreement is required to extend it. If the Conditional Waiver and Extension Agreement expires or terminates, and we are unable to pay the extended amounts and any accelerated amounts, this would trigger a payment default under the relevant bank facilities, which would trigger defaults under other debt of ours.

We intend to enter into a refinancing plan in the next few months. The refinancing plan we are negotiating will likely include amortization requirements, which we intend to meet using funds from a variety of sources, including the proceeds from free cash flow, asset sales and debt and/or equity security issuances. The global refinancing plan may also include a requirement to issue debt and/or equity securities in specified instances. Our potential inability to meet the amortization requirements would result in a payment default. The refinancing plan will likely include a revised covenant package that will place various restrictions on us. We may also be required to encumber or segregate some of our assets for the benefit of our lenders as part of the refinancing plan, and if we are unable to meet the amortization requirements and cannot refinance the debt, the lenders under the refinancing plan could have the right to exercise remedies and foreclose on the pledged assets.

Historically, we have addressed our liquidity needs (including funds required to make scheduled principal and interest payments, refinance debt, and fund working capital and planned capital expenditures) with operating cash flow, borrowings under credit facilities, proceeds of debt and equity offerings, and proceeds from asset sales. The global stock and credit markets have recently experienced significant price volatility, dislocations and liquidity disruptions, which have caused market prices of many stocks to fluctuate substantially and the spreads on prospective and outstanding debt financings to widen considerably. These circumstances have materially impacted liquidity in the financial markets, making terms for financings materially less attractive, and in several cases have resulted in the unavailability of certain types of financing. This volatility and illiquidity has negatively impacted a broad range of fixed income securities. As a result, the market for fixed income securities has experienced decreased liquidity, increased price volatility, credit downgrade events, and increased defaults. Global equity markets have also been experiencing heightened volatility and turmoil, with issuers who are exposed to the credit markets particularly affected. These factors and the continuing market disruption have had, and may continue to have, an adverse effect on us, including on our ability to refinance future maturities, in part because we, like many public companies, from time to time raise capital in debt and equity capital markets.

In addition, continued uncertainty in the stock and credit markets may negatively impact our ability to access additional short-term and long-term financing, including accounts receivable securitizations, on reasonable terms or at all, which would negatively impact our liquidity and financial condition. See "— Our Receivables Financing Arrangements."

On March 10, 2009, our credit ratings were downgraded below investment grade by Standard & Poor's and by Fitch. The loss of our investment grade ratings has negatively impacted and will continue to negatively impact the availability of financing and the terms on which we could refinance our debt, including the imposition of more restrictive covenants and higher interest rates. The disruptions in the financial and credit markets may continue to adversely affect our credit rating and the market value of our common stock. If the current pressures on credit continue or worsen, we may not be able to refinance, if necessary, our outstanding debt when due, which could have a material adverse effect on our business and financial condition.

Our revolving credit facilities are fully drawn. If our operating results worsen significantly, or if we are unable to complete our planned divestitures and our cash flow or capital resources prove inadequate, we could face liquidity problems and may not be able to comply with our upcoming principal payment maturities under our indebtedness.

We and our subsidiaries have sought and obtained waivers and amendments to several of our debt instruments relating to a number of financial ratios. On December 19, 2008, we announced that we reached an agreement with our bank lenders to increase the permitted leverage ratio requirement starting with the period ending on December 31, 2008. See "— Recent Developments — Recent Developments Relating to Our Indebtedness." We may need to seek waivers or amendments in the future. However, we cannot assure you that any future waivers, if requested, will be obtained. If we or our subsidiaries are unable to comply with the provisions of our debt instruments, and are unable to obtain a waiver or amendment, the indebtedness outstanding under such debt instruments could be accelerated. Acceleration of these debt instruments would have a material adverse effect on our financial condition.

Parent Company-Only Financial Statements

Under Rule 5-04(c) of Regulation S-X under the Exchange Act, companies with restricted net assets exceeding 25% of their consolidated net assets are required to include Schedule I (parent company-only financial statements). Under Rule 4-08(e)(3) of Regulation S-X, loan provisions prohibiting dividend payments, loans or advances to the parent by a subsidiary are considered restrictions for purposes of computing restricted net assets.

As of December 31, 2008, the financing agreements entered into by us and our subsidiaries do not include covenants or agreements that by their specific terms restrict the transfer of funds from our subsidiaries to us in the form of dividends, loans or advances. However, the financing agreements include some restrictive covenants that would be considered transfer restrictions under Rule 4-08(e)(3) of Regulation S-X. These restrictive covenants are as follows:

- A restriction on asset dispositions that limits the use of proceeds of funds obtained from assets sales. The restriction requires us to reinvest such proceeds in cement-related assets or repay senior debt. As of December 31, 2008, we had senior debt in subsidiaries of approximately U.S.$13,188 million (equivalent to approximately 29% of our consolidated assets); and
- A financial covenant limiting the amount of total debt maintained in New Sunward Holding B.V. (a Dutch holding company subsidiary) relative to the stockholder's equity of CEMEX España (our operating company in Spain and the direct parent of New Sunward Holding B.V.) to be not higher than 0.35 times. As of December 31, 2008, New Sunward Holding B.V. had outstanding debt of approximately €1,002 million (U.S.$1,400 million).

In light of these restrictions, as of December 31, 2008, we had more than 25% of our consolidated net assets subject to restrictions under Rule 4-08(e)(3) of Regulation S-X, and as a result we have included the required Schedule I (parent company-only financial statements) elsewhere in this annual report.

Financing Activities

As of December 31, 2008, we had approximately U.S.$18.8 billion of total outstanding debt, not including approximately U.S.$3.0 billion of perpetual debentures issued by special purpose vehicles, which are not accounted for as debt under MFRS but are considered to be debt for purposes of U.S. GAAP. Our financing activities through December 31, 2007 are described in our previous annual reports on Form 20-F. The following is a description of our financings in 2008:

- On April 25, 2008, we completed an issuance of notes under our Medium-Term Promissory Notes Program (" *Certificados Bursátiles*"), for Ps1.0 billion with a maturity of approximately 2.5 years.

- On June 2, 2008, New Sunward Holding B.V. closed two identical U.S.$525 million facilities with a group of relationship banks. Each facility allowed the principal amount to be automatically extended by us for consecutive six-month periods indefinitely after a period of three years and included an option of New Sunward Holding B.V. to defer interest at any time, subject to a number of conditions. Within the first three years that each facility was in place and, subject to the satisfaction of specified conditions, New Sunward Holding B.V. had options to convert all (and not part) of the respective amounts outstanding under the respective facilities into maturity loans, each with a fixed maturity date of June 30, 2011. New Sunward Holding B.V. exercised this right to convert the facilities during December 2008. The facilities pay a Yen Libor multiplier semiannually. The cost in dollars has been fixed for the next three years, to 2.6%, 2.9% and 3.3%, respectively.
- On June 25, 2008, we entered into a structured transaction relating to (i) a U.S.$500 million credit agreement with a bullet maturity on April 29, 2011 and (ii) a series of put spread derivative transactions on our ADSs with a notional amount equal to the amount of the credit agreement. The cost of the credit agreement will be 0%, if the average price of our ADS at the end of the put spread option is equal or above U.S.$32.92 (as the interest payment would be funded by the net put premium), or from 0.1% to a maximum of 12%, if the ADS price is below U.S.$32.92 at maturity. The proceeds were used to refinance existing short-term indebtedness we incurred in connection with the Rinker acquisition.
- On October 14, 2008, we entered into a U.S.$250 million amortizing loan agreement with a final maturity of two years.
- On December 11, 2008, we issued Ps970 million of long-term debt in the Mexican capital markets, exchanging *Certificados Bursátiles* maturing in 2008 and 2009 for new notes, representing a 17% participation rate in the exchange offer. The new notes, guaranteed by CEMEX México S.A. de C.V. and Empresas Tolteca de Mexico, S.A. de C.V., mature on September 15, 2011.
- During the last quarter of 2008, we also issued various short-term notes under our Short-Term Promissory Notes Program (" *Certificados Bursátiles de Corto Plazo*"), with the partial guarantee of the Mexican government through NAFIN, having an outstanding amount of Ps1.4 billion at the end of the quarter.

For a description of the perpetual debentures issued by C5 Capital (SPV) Limited, C8 Capital (SPV) Limited, C10 Capital (SPV) Limited and C10-EUR Capital (SPV) Limited, see "— Our Perpetual Debentures."

See "—Recent Developments — Recent Developments Relating to Our Indebtedness — Refinancing Plan."

Our Equity Forward Arrangements

On December 20, 2006, we sold in the Mexican market 50 million CPOs that we held in treasury for approximately Ps1,932 million to a financial institution. On the same date, CEMEX negotiated a forward contract for the same number of CPOs with maturity in December 2009. The notional amount of the contract was approximately U.S.$171 million (Ps2,003 million). This equity forward contract was liquidated in 2007, generating a gain of approximately U.S.$13 million (Ps142 million) recognized in our income statement. See note 11C part II to our consolidated financial statements included elsewhere in this annual report.

In December 2007, CEMEX negotiated an equity forward contract covering approximately 47 million CPOs with maturity in March 2008. The notional amount of the contract was approximately U.S.$121 million (Ps1,321 million). This contract was negotiated to hedge future exercises of options under CEMEX's executive stock option programs. During 2008, the hedge was increased to approximately 81 million CPOs with a notional amount of U.S.$206 million. During October 2008, a significant decrease in the price of CPOs accelerated the anticipated settlement of these contracts, which generated a loss of approximately U.S.$153 million (Ps2,102 million), recognized in our results for the period. See note 11C to our consolidated financial statements included elsewhere in this annual report.

In connection with the sale of shares of AXTEL (see note 8A to our consolidated financial statements included elsewhere in this annual report) and in order to benefit from a future increase in the prices of such entity, on March 31, 2008, CEMEX entered into forward contracts with net cash settlement covering 119 million CPOs (each for 59.5 million CPOs) of AXTEL with maturity in April 2011. The fair value of such contracts as of December 31, 2008 was a loss of approximately U.S.$12 million (Ps165 million), including a deposit in margin accounts for U.S.$184 million (Ps2,528 million) which is presented net within liabilities, as a result of offsetting balances with the counterparties. Changes in the fair value of these instruments generated a loss in our 2008 income statement of approximately U.S.$196 million (Ps2,693 million). As of the date of this report, resulting from our recent derivatives transaction activities, these contracts mature in October 2009. One of the counterparties has an option to maintain its transaction for 59.5 million CPOs of AXTEL until April 2011.

Our Perpetual Debentures

As of December 31, 2006, 2007 and 2008, minority interest stockholders' equity includes approximately U.S.$1,250 million (Ps14,642 million), U.S.$3,065 million (Ps33,470 million) and U.S.$3,020 million (Ps41,495 million), respectively, representing the principal amount of perpetual debentures. These debentures have no fixed maturity date and do not represent a contractual payment obligation for us. Based on their characteristics, these debentures, issued through special purpose vehicles, or SPVs, qualify as equity instruments under MFRS and are classified within minority interest as they were issued by consolidated entities, considering that there is no contractual obligation to deliver cash or any other financial asset, the debentures do not have any maturity date, meaning that they were issued to perpetuity, and we have the unilateral right to defer indefinitely the payment of interest due on the debentures. The classification of the debentures as equity instruments for accounting purposes under MFRS was made under applicable International Financial Reporting Standards, or IFRS, which were applied to these transactions in compliance with the supplementary application of IFRS in Mexico. Issuance costs, as well as the interest expense, which is accrued based on the principal amount of the perpetual debentures, are included within "Other equity reserves" and represented expenses of approximately Ps2,596 million in 2008, Ps1,847 million in 2007 and Ps152 million in 2006. The different SPVs were established solely for purposes of issuing the perpetual debentures and are included in our consolidated financial statements. As of December 31, 2008, our perpetual debentures are as follows:

Issuer	Issuance Date	Nominal Amount (in millions)	Repurchase Option	Interest Rate
C10-EUR Capital (SPV) Ltd.	May 2007	€ 730	Tenth anniversary	6.3%
C8 Capital (SPV) Ltd.	February 2007	U.S.$ 750	Eighth anniversary	6.6%
C5 Capital (SPV) Ltd.	December 2006	U.S.$ 350	Fifth anniversary	6.2%
C10 Capital (SPV) Ltd.	December 2006	U.S.$ 900	Tenth anniversary	6.7%

Under U.S. GAAP, these perpetual debentures are recognized as debt and interest payments are included as financing expense, as part of the comprehensive financial result in the income statement.

As described below and in note 11C to our financial statements included elsewhere in this annual report, there have been derivative instruments associated with the debentures issued by C5 Capital (SPV) Limited, C8 Capital (SPV) Limited, C10 Capital (SPV) Limited and C10-EUR Capital (SPV) Limited through which we have changed the risk profile associated with interest rates and foreign exchange rates in respect of these debentures. In order to eliminate our exposure to Yen and to Yen interest rates, on May 22, 2009, we delivered the required notices under the documentation governing the dual-currency notes and the related perpetual debentures, informing debenture holders our decision to exercise our right to defer by one day the scheduled interest payment otherwise due and payable on June 30, 2009, the next scheduled interest payment date under the dual-currency notes and the related perpetual debentures. As a result, the interest rate on the dual-currency notes will convert from Yen floating rate into Dollar or Euro fixed rate, as applicable, as of June 30, 2009, and the associated Yen cross-currency swap derivatives will be unwound. Any resulting loss would be payable by us to our derivatives counterparties and any profit would be retained by the debenture issuers and applied to pay future coupon payments on the perpetual debentures. As of the date of this report, the result of the unwinding of such cross-currency derivatives is unknown but we estimate that if such unwind result is a loss, it will not have a material adverse effect on our financial position.

Our Receivables Financing Arrangements

We have established sales of trade accounts receivable programs with financial institutions, referred to as securitization programs. These programs were originally negotiated by our subsidiary in Spain during 2000, our subsidiary in the United States during 2001, our subsidiaries in Mexico during 2002, and our subsidiary in France during 2006. Through the securitization programs, our subsidiaries effectively surrender control, risks and the benefits associated with the accounts receivable sold; therefore, the amount of receivables sold is recorded as a sale of financial assets and the balances are removed from the balance sheet at the moment of sale, except for the amounts that the counterparties have not paid, which are reclassified to other accounts receivable. See notes 4 and 5 to our consolidated financial statements included elsewhere in this annual report. The balances of receivables sold pursuant to these securitization programs as of December 31, 2006, 2007 and 2008 were Ps12,731 million (U.S.$1,166 million), Ps12,325 million (U.S.$1,129 million) and Ps14,765 million (U.S.$1,075 million), respectively. The accounts receivable qualifying for sale do not include amounts over specified days past due or concentrations over specified limits to any one customer, according to the terms of the programs. Expenses incurred under these programs, originated by the discount granted to the acquirers of the accounts receivable, are recognized in the income statements as financial expense and were approximately Ps475 million (U.S.$44 million) in 2006, Ps673 million (U.S.$62 million) in 2007 and Ps656 million (U.S.$58 million) in 2008. The proceeds obtained through these programs have been used primarily to reduce net debt. As of the date of this annual report, our Mexican securitization program had scheduled commitment expiration dates by July 2009, for an aggregate principal amount of approximately Ps3,420 million (U.S.$260 million) as of May 31, 2009. We have made progress in our current negotiation with financial institutions to extend this program and most of such maturities. If we are unable to extend this transaction on reasonable terms or at all, however, it would have a negative impact on our liquidity position. On June 24, 2009, the Securitization Program in France was extended until May 24, 2010 provided that the Conditional Waiver and Extension Agreement is not terminated and the global refinancing is completed in a form satisfactory to the program sponsor. On June 26, 2009, we entered into a one-year accounts receivable securitization program for our U.S. operations for up to U.S.$300 million in funded amounts replacing our prior program.

Stock Repurchase Program

Under Mexican law, our shareholders may authorize a stock repurchase program at our annual shareholders' meeting. Unless otherwise instructed by our shareholders, we are not required to purchase any minimum number of shares pursuant to such program.

In connection with our 2006 and 2007 annual shareholders' meetings held on April 26, 2007, and April 24, 2008, respectively, our shareholders approved stock repurchase programs in an amount of up to Ps6,000 million (nominal amount) to be implemented between April 2007 and April 2009. No shares were purchased under these programs and no stock repurchase program is outstanding as of the date of this annual report.

Recent Developments

Recent Developments Relating To Our Indebtedness

Amendments to Facilities in December 2008

Many of our debt facilities had, among other conditions, leverage ratio covenants requiring us to maintain a net debt ratio, as defined in each agreement, of no more than 3.5 times the trailing-twelve-month operating EBITDA as defined in each agreement. In December 2008, we requested and received consent from the relevant banks to amend, among other conditions, the leverage ratio covenant in our existing syndicated loan facilities. The new leverage ratio requirement at the consolidated CEMEX, S.A.B. de C.V. level was 4.5 to 1 on December 31, 2008 and remained at that ratio on March 31, 2009, increasing to 4.75 to 1 on June 30, 2009, and gradually decreasing back to 3.5 to 1 by September 30, 2011 and thereafter (see note 11A to our financial statements included elsewhere in this annual report).

Completion of Initial Refinancing Plan in January 2009

During January 2009, we completed a refinancing plan consisting of (i) combining multiple short-term bilateral facilities into two long-term syndicated facilities, (ii) extending the maturity of certain debt, and (iii) amending leverage ratios and other covenants in various facilities. This refinancing plan reflects our cooperation with our five lead banks in a global effort to strengthen our capital structure and to lengthen the maturity profile of our debt.

Prior to January 27, 2009, we had approximately U.S.$2.7 billion of debt in the form of a variety of short-term bilateral facilities with individual banks, scheduled to mature in 2009 and early 2010. On January 27, 2009, approximately U.S.$2,093 million of these bilateral facilities were refinanced in two long-term syndicated joint facilities. The final maturity for the amounts refinanced in these new long-term facilities is February 2011, with U.S.$750 million amortizing in 2009 and U.S.$286 million amortizing in 2010.

Prior to January 27, 2009, we also had U.S.$3 billion of debt in the form of a syndicated loan facility due in December 2009 at the CEMEX España level. On January 27, 2009, we extended the final maturity of approximately U.S.$1.7 billion under this facility by one year to December 2010. The remaining approximately U.S.$1.3 billion remains due in December 2009.

Banobras Credit Facility

During April 2009, our subsidiary CEMEX Concretos, S.A. de C.V., closed with Banobras S.N.C., a Mexican government development bank, a Ps5,000 million credit facility under a government program established to support infrastructure development in Mexico. We have made an initial drawdown of Ps2,087 million under this facility to partially finance current and future public works awarded to CEMEX in Mexico. This facility is part of a government program to provide financing to suppliers and contractors in the infrastructure sector in Mexico.

Global Refinancing

On March 9, 2009 we announced the initiation of discussions with our core banks to renegotiate the majority of our outstanding debt, or approximately U.S.$14.5 billion in syndicated and bilateral obligations. Before the end of the first quarter 2009, we entered into a Conditional Waiver and Extension Agreement with a group of our bank lenders. The lenders party to the Conditional Waiver and Extension Agreement have agreed to extend to July 31, 2009 the scheduled principal payment obligations which were originally due between March 24, 2009 and July 31, 2009. We entered into the Conditional Waiver and Extension Agreement to provide time to negotiate a broad debt refinancing. As of June 26, 2009, principal payments in an aggregate principal amount of approximately U.S.$1,166 million have been extended under the Conditional Waiver and Extension Agreement to July 31, 2009. The Conditional Waiver and Extension Agreement will terminate upon the effectiveness of a global refinancing agreement. However, if the global refinancing agreement is not entered into prior to the expiration of the Conditional Waiver and Extension Agreement, or if the Conditional Waiver and Extension Agreement terminates for other reasons, the extended amounts will become automatically due and payable and the remaining principal amounts under any relevant facility will become capable of being accelerated by the vote of the required lenders under that relevant facility. See “Item 3 — Key Information — Risk Factors — We have substantial amounts of debt maturing in 2009 and each of the next several years, and a substantial amount of our debt is subject to the Conditional Waiver and Extension Agreement.”

We intend to enter into a global refinancing in the upcoming months. Upon completion, we expect that the refinancing plan will extend the maturities of approximately U.S.$14.5 billion in syndicated and bilateral obligations. The refinancing plan will likely include amortization requirements, which we intend to meet using funds from a variety of sources, including the proceeds from free cash flow, asset sales and debt and/or equity security issuances. The refinancing plan may also include, until the time that we satisfy certain requirements, tighter covenants and restrictions on our ability to do certain things, including but not limited to, incurring debt, granting security, engaging in acquisitions and joint ventures, granting guarantees, declaring and paying cash dividends and distributions to shareholders, making capital expenditures and issuing shares. In addition, the global refinancing plan may contain a requirement to issue equity or equity-linked securities in specified instances, and we may be required to encumber or segregate some of our assets for the benefit of the lenders.

While the discussions regarding the global refinancing are ongoing, we intend to continue to make interest payments across both bank and capital markets debt as they come due. Completion of the negotiation process may require consent from all the lenders under the corresponding facilities. Ultimately, the implementation of the refinancing plan is subject to obtaining the necessary commitments from these financial institutions and to the satisfactory completion of final documentation and customary conditions. As of the filing date of this annual report, we continue our negotiations with our core bank lenders, and we can not assure that we will be able to reach a refinancing agreement on favorable terms or at all. See "Item 3 — Key Information — Risk Factors — We have significant amounts of debt coming due in each of the next several years, and we may not be able to secure refinancing on favorable terms or at all."

As of December 31, 2008 and March 31, 2009, we were in compliance with our obligations under debt agreements.

Recent Developments Relating To Our Receivables Financing Arrangements

On June 24, 2009, the Securitization Program in France was extended until May 24, 2010 provided that the Conditional Waiver and Extension Agreement is not terminated and the global refinancing is completed in a form satisfactory to the program sponsor. On June 26, 2009, we entered into a one-year accounts receivable securitization program for our U.S. operations for up to U.S.$300 million in funded amounts replacing our prior program.

Recent Developments Relating To Our Financial Derivatives Instruments

As required in the context of our renegotiation with bank lenders, since the beginning of 2009, we have been reducing our derivatives notional amount, thereby reducing our risk to cash margin calls. During April 2009, we finished the closing of a significant portion of our active and inactive derivative financial instruments held as of December 31, 2008. See notes 11C and D to our consolidated financial statements included elsewhere in this annual report. By means of this termination, we settled an aggregate loss of approximately U.S.$1,093 million, which after netting approximately U.S.$624 million of cash margin deposits already posted in favor of our counterparties and cash payments of approximately U.S.$48 million, was documented through promissory notes for approximately U.S.$421 million, which increased CEMEX's outstanding debt. A comparison of our derivative instruments portfolio between December 31, 2008 and April 30, 2009 is as follows:

	December 31, 2008		April 30, 2009	
In millions of U.S. Dollars	Nominal	Fair value[1]	Nominal	Fair value[1]
Active positions				
Derivative financial instruments related to debt	U.S.$16,416	(4)	—	—
Other derivative financial instruments	877	(36)	301	36
Derivative financial instruments related to equity instruments [2]	3,520	222	3,841	55
	20,813	182	4,142	91
Inactive positions[3]				
Short-term and long-term cross-currency swaps	—	(113)	—	—
Short-term and long-term foreign exchange forwards	—	(272)	—	—
	—	(385)	—	—
	U.S.$ 20,813	(203)	4,142	91

(1) At December 31, 2008 and April 30, 2009, the fair value of our derivative instruments is presented net of cash margin deposits of approximately U.S.$570 million and U.S.$54 million, respectively, and exclude approximately U.S.$193 million in 2008 and U.S.$267 million in April 2009, of cash margin deposits associated to our obligations under put option transactions on CEMEX's CPOs (see note 19C to our consolidated financial statements included elsewhere in this annual report).

(2) At April 30, 2009, the nominal amount of "Derivative financial instruments related to equity instruments" includes approximately U.S.$373 million of put options on CEMEX's CPOs mentioned above. These instruments present an estimated fair value loss of approximately U.S.$211 million, which net of cash margin deposits of approximately U.S.$213 results in a net

asset of approximately U.S.$2 million. At December 31, 2008, these instruments were recognized at fair value and disclosed as a guarantee obligation (see note 19C to our consolidated financial statements included elsewhere in this annual report) rather than as a derivative instrument.

(3) The nominal amounts of the original derivative positions and the opposite derivative positions at December 31, 2008, are not aggregated considering that the effects of one instrument are proportionally inverse to the effects of the other instrument, and therefore, eliminated.

As a result of this initiative, our outstanding debt profile reflects the original contractual conditions of our obligations. As of May 31, 2009, our total debt was approximately U.S.$19,354 million, not including our perpetual debentures, of which approximately 60.9% was Dollar denominated, approximately 25.0% was denominated in Euros, approximately 12.8% was denominated in Pesos, approximately 0.6% was Yen denominated and approximately 0.7% was denominated in other currencies. As of such date, our total debt interest rate integration was approximately 89% floating and 11% fixed interest rate, and around U.S.$4,587 million was short term and U.S.$14,767 million was long term.

As described below and in note 11C part III to our financial statements included elsewhere in this annual report, there have been derivative instruments associated with the debentures issued by C5 Capital (SPV) Limited, C8 Capital (SPV) Limited, C10 Capital (SPV) Limited and C10-EUR Capital (SPV) Limited through which we have changed the risk profile associated with interest rates and foreign exchange rates in respect of these debentures. In order to eliminate our exposure to Yen and to Yen interest rates, on May 22, 2009, we delivered the required notices under the documentation governing the dual-currency notes and the related perpetual debentures, informing debenture holders of our decision to exercise our right to defer by one day the scheduled interest payment otherwise due and payable on June 30, 2009, the next scheduled interest payment date under the dual-currency notes and the related perpetual debentures. As a result, the interest rate on the dual-currency notes will convert from Yen floating rate into Dollar or Euro fixed rate, as applicable, as of June 30, 2009, and the associated Yen cross-currency swap derivatives will be unwound. Any resulting loss would be payable by us to our derivatives counterparties and any profit would be retained by the debenture issuers and applied to pay future coupon payments on the perpetual debentures. As of December 31, 2008, the aggregate notional amount of such derivatives expected to be unwound was approximately U.S.$3,020 million (see Item 5 – “Operating and Financial Review and Prospects — Our Perpetual Debentures”).

As of the date of this report, the result of the unwinding of such cross-currency derivatives is unknown but we estimate that if such unwind result is a loss, it will not have a material adverse effect on our financial position.

Recent Developments Relating to Our Planned Divestitures of Assets

On July 31, 2008, we agreed to sell our operations in Austria (consisting of 26 aggregates and 41 ready-mix concrete plants) and Hungary (consisting of 6 aggregates, 29 ready-mix concrete and 4 paving stone plants) to Strabag SE, one of Europe’s leading construction and building materials groups, for €310 million (approximately U.S.$433 million). On February 11, 2009, the HCC approved the sale subject to the condition that the purchaser sell the ready-mix concrete plant operating in Salgótarján to a third party within the next year. The transaction is still subject to regulatory approval by the Austrian competition authorities. The purchaser has appealed several conditions imposed by the Austrian competition authorities, which we expect will delay the completion of the sale by at least two months.

On June 15, 2009, we sold three quarries (located in Nebraska, Wyoming and Utah) and our 49% joint venture interest in the operations of a quarry located in Granite Canyon, Wyoming, to Martin Marietta Materials, Inc. for U.S.$65 million.

On June 15, 2009, we announced our agreement to sell all our Australian operations to Holcim for approximately 2.02 billion of Australian Dollars (approximately U.S.$1.62 billion considering the exchange rate of 1.25 AUD$ per US Dollar at June 15, 2009). All the proceeds of the sale will be used to reduce debt. The transaction is subject to regulatory approval, due diligence and other closing conditions. Our facilities in Australia include 249 ready-mix plants, 83 aggregate quarries, 16 concrete pipe and precast products plants, and our 25% stake in Cement Australia.

Research and Development, Patents and Licenses, etc.

Our research and development, or R&D, efforts help us in achieving our goal of increasing market share in the markets in which we operate. The department of the Vice President of Technology is responsible for developing new products for our cement and ready-mix concrete businesses that respond to our clients' needs. The department of the Vice President of Energy has the responsibility for developing new processes, equipment and methods to optimize operational efficiencies and reduce our costs. For example, we have developed processes and products that allow us to reduce heat consumption in our kilns, which in turn reduces energy costs. Other products have also been developed to provide our customers a better and broader offering of products in a sustainable manner. We believe this has helped us to keep or increase our market share in many of the markets in which we operate.

We have ten laboratories dedicated to our R&D efforts. Nine of these laboratories are strategically located in close proximity to our plants to assist our operating subsidiaries with troubleshooting, optimization techniques and quality assurance methods. One of our laboratories is located in Switzerland, where we are continually improving and consolidating our research and development efforts in the areas of cement, concrete, aggregates, admixtures, mortar and asphalt technology, as well as in information technology and energy management. We have several patent registrations and pending applications in many of the countries in which we operate. These patent registrations and applications relate primarily to different materials used in the construction industry and the production processes related to them, as well as processes to improve our use of alternative fuels and raw materials.

Our Information Technology divisions have developed information management systems and software relating to cement and ready-mix concrete operational practices, automation and maintenance. These systems have helped us to better serve our clients with respect to purchasing, delivery and payment.

R&D activities comprise part of the daily routine of the departments and divisions mentioned above; therefore, the costs associated with such activities are expensed as incurred. However, the costs incurred in the development of software for internal use are capitalized and amortized in operating results over the estimated useful life of the software, which is approximately four years.

In 2006, 2007 and 2008, the combined total expense of the departments of the Vice President of Energy and the Vice President of Technology, which includes R&D activities, amounted to approximately U.S.$46 million, U.S.$40 million and U.S.$31 million, respectively. In addition, in 2006, 2007 and 2008, we capitalized approximately U.S.$218 million, U.S.$278 million and U.S.$90 million, respectively, related to internal use software development. See notes 2J and 10 to our consolidated financial statements included elsewhere in this annual report. The items capitalized refer to direct costs incurred in the development phase of the software and relate mainly to professional fees, direct labor and related travel expenses.

Summary of Material Contractual Obligations and Commercial Commitments

As of December 31, 2007 and 2008, we had commitments for the purchase of raw materials for an approximate amount of U.S.$ 264 million and U.S.$194 million.

During 1999, we entered into agreements with a partnership, which built and operated an electrical energy generating plant in Mexico called *Termoeléctrica del Golfo*, or TEG. During 2007, another company replaced the original operator. The agreements provide that we are required to purchase the energy generated by the plant for a term of not less than 20 years, which started in April 2004. In connection therewith, we committed to supply TEG all fuel necessary for its operations, a commitment that we have hedged through a 20-year agreement with *Petróleos Mexicanos*. When the operator of TEG changed, the term of our agreements with TEG was extended until 2027. However, our agreement with *Petróleos Mexicanos* terminates in 2024. Consequently, for the last 3 years of the TEG fuel supply contract, we intend to purchase the required fuel in the market. We are not required to make any capital expenditures for this project. For the years ended December 31, 2007 and 2008, TEG supplied 59.7% and 60.4%, respectively, of our electricity needs in Mexico during such years.

Starting on June 30, 2008, Ready Mix USA has had the right to require us to acquire Ready Mix USA's interest in CEMEX Southeast, LLC and Ready Mix USA, LLC at a price equal to the greater of (a) eight times the companies' operating cash flow for the trailing twelve months, (b) eight times the average of the companies' operating cash flow for the previous three years or (c) the net book value of the combined companies' assets. We estimate this price would have been approximately U.S.$650 million as of January 31, 2009. This option will expire on July 1, 2030.

In March 1998, we entered into a 20-year contract with PEMEX providing that PEMEX's refinery in Cadereyta would supply us with 0.9 million tons of petcoke per year, commencing in 2003. In July 1999, we entered into a second 20-year contract with PEMEX providing that PEMEX's refinery in Madero would supply us with 0.85 million tons of petcoke per year, commencing in 2002. We expect the PEMEX petcoke contracts to reduce the volatility of our fuel costs and provide us with a consistent source of petcoke throughout their 20-year terms (which expire in July 2023 for Cadereyta's refinery contract and October 2022 for the Madero's refinery contract).

In 1999, we reached an agreement with ABB Alstom Power and Sithe Energies, Inc. (currently Excelon Generation Company LLC) requiring Alstom and Sithe to finance, build and operate "Termoeléctrica del Golfo," a 230 megawatt energy plant in Tamuin, San Luis Potosi, Mexico and to supply electricity to us for a period of 20 years. Pursuant to the agreement, we are obligated to purchase the full electric capacity generated by the power plant during the 20-year period. We are also obligated to supply Alstom and Sithe with 1.2 million tons of petcoke per year for the 20-year period for the consumption of this power plant and another power plant built and operated by Alstom and Sithe for Peñoles, a Mexican mining company. We expect to meet our petcoke delivery requirements through several petcoke supply agreements, including our petcoke supply contract with PEMEX. Pursuant to the agreement, we may be obligated to purchase the Termoeléctrica del Golfo plant upon the occurrence of specified material defaults or events, such as failure to pay when due, bankruptcy or insolvency, and revocation of permits necessary to operate the facility, and upon termination of the 20-year period, we will have the right to purchase the assets of the power plant. We expect this arrangement to reduce the volatility of our energy costs. The power plant commenced commercial operations on April 29, 2004. In February 2007, ABB Alstom Power and Excelon Generation Company LLC sold their participations in the project to a subsidiary of The AES Corporation. For the years ended December 31, 2008, 2007 and 2006, Termoeléctrica del Golfo delivered energy to our Mexico's 15 cement plants, supplying approximately 60% of such years' energy needs.

For purposes of presenting the approximate cash flows that will be required to meet our other material contractual obligations, the following table presents a summary of those obligations, as of December 31, 2008:

Contractual Obligations

As of December 31, 2007 and 2008, we had the following material contractual obligations:

(in millions of Dollars)	2007	2008				
Obligations	Total	Less than 1 year	1-3 Years	3-5 Years	More than 5 Years	Total
Long-term debt	U.S.$ 18,100	4,161	8,565	1,396	1,876	15,998
Capital lease obligation	51	14	10	3	—	27
Total debt(1)	18,151	4,175	8,575	1,399	1,876	16,025
Operating leases(2)	841	214	339	228	179	960
Interest payments on debt(3)	2,624	357	566	213	136	1,272
Interest rate derivatives(4)	407	9	53	5	25	92
Pension plans and other benefits(5)	1,925	164	309	311	825	1,609
Inactive derivative financial instruments(6)	—	252	30	95	8	385
Total contractual obligations	U.S.$ 23,948	5,171	9,872	2,251	3,049	20,343
	Ps 261,513	71,050	135,641	30,929	41,893	279,513

(1) The scheduling of debt payments, which includes current maturities, does not consider the effect of any refinancing of debt that may occur during the following years. In the past we have replaced our long-term obligations for others of similar nature.

(2) The amounts of operating leases have been determined on the basis of nominal cash flows. We have operating leases, primarily for operating facilities, cement storage and distribution facilities and certain transportation and other equipment, under which we are required to make annual rental payments plus the payment of certain operating expenses. Rental expense was U.S.$178 million (Ps2,085 million), U.S.$195 million (Ps2,129 million) and U.S.$198 million (Ps2,239 million) in 2006, 2007 and 2008, respectively.

(3) For purposes of determining future estimated interest payments on our floating rate debt, we used the interest rates in effect as of December 31, 2007 and 2008.

(4) The estimated cash flows under interest rate derivatives include the approximate cash flows under our interest rate and cross-currency swap contracts, and represent the net amount between the rate we pay and the rate received under such contracts. For purposes of determining future estimated cash flows, we used the interest rates applicable under such contracts as of December 31, 2007 and 2008.

(5) Amounts relating to planned funding of pensions and other post-retirement benefits represent estimated annual payments under these benefits for the next 10 years, determined in local currency and translated into U.S. dollars at the effective exchange rates as of December 31, 2007 and 2008. Future payments include the estimate of new retirees during such future years.

(6) Refers to estimated contractual obligations in connection with positions of inactive derivative financial instruments. See note 11D to our consolidated financial statements included elsewhere in this annual report.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements that are reasonably likely to have a material effect on our financial condition, operating results, liquidity or capital resources.

CEMEX Venezuela

As of and for the periods ended December 31, 2007 and July 31, 2008, measured in Pesos, our Venezuelan operations accounted for approximately 2.9% and 3.0% of our consolidated revenues, respectively, and 2.1% in both periods of our consolidated total assets. In the event certain of our affiliates receive compensation as a result of proceedings they have initiated against Venezuela for the expropriation of their investment in CEMEX Venezuela, it is expected that the award of such relief will enable us to reduce consolidated debt and/or to expand total installed capacity. Accordingly, we believe that the expropriation of our affiliates' investment in CEMEX Venezuela will not have a material impact on our consolidated financial position, liquidity or results of operations. At the present time,

however, it is not possible to predict the timing or amount of any award of restitution and/or compensation, the extent to which any order of restitution can be enforced, or the extent to which any monetary relief can be collected following an award. Until restitution and/or compensation is received, we will be negatively affected, although we do not expect such negative effect to be significant in light of our overall consolidated financial position.

We consolidated the income statement of CEMEX Venezuela in our results of operations for the seven-month period ended July 31, 2008. For balance sheet purposes, as of December 31, 2008, our investment in Venezuela was presented within "Other investments and non current accounts receivable." As of December 31, 2007 and 2008, the net book value of our investment in Venezuela was approximately Ps6,732 million and Ps6,877 million, respectively, corresponding to the interest of our affiliates of approximately 75.7%.

See notes 8B and 10A to our consolidated financial statements included elsewhere in this annual report.

See "Item 4 — Information on the Company — Business of CEMEX — Regulatory Matters and Legal Proceedings — Tax Matters — Expropriation of CEMEX Venezuela and ICSID Arbitration."

Qualitative and Quantitative Market Disclosure

Our Derivative Financial Instruments

We use derivative financial instruments in order to change the risk profile associated with changes in interest rates and foreign exchange rates of debt agreements, as a vehicle to reduce financing costs, as an alternative source of financing, and as hedges of: (i) highly probable forecasted transactions, (ii) our net assets in foreign subsidiaries and (iii) future exercises of options under our executive stock option programs. Before entering into any transaction, we evaluate, by reviewing its credit ratings and our business relationship according to our policies, the creditworthiness of the financial institutions and corporations that are prospective counterparties to our derivative financial instruments. We select our counterparties to the extent we believe that they have the financial capacity to meet their obligations in relation to these instruments. Under current financial conditions and volatility, we can not assure that risk of non-compliance with the obligations agreed to with such counterparties is minimal.

The fair value of derivative financial instruments is based on estimated settlement costs or quoted market prices and supported by confirmations of these values received from the counterparties to these financial instruments. The notional amounts of derivative financial instrument agreements are used to measure interest to be paid or received and do not represent the amount of exposure to credit loss.

	(U.S.$ millions)				
	At December 31, 2007		At December 31, 2008		
Derivative Instruments	Notional amount	Estimated fair value	Notional amount	Estimated fair value	Maturity Date
Equity forward contracts	121	2	258	(12)	April '11
Other forward contracts	—	—	40	(5)	Oct '09
Other Equity Derivatives	—	—	500	(44)	Aug '11
Foreign exchange forward contracts	7,216	(51)	940	(2)	Jan '08 – April '11
Derivatives related to perpetual debentures	3,065	202	3,020	266	Dec '11 – Jun '17
Interest rate swaps	4,473	68	15,319	(18)	Jan '08 – Mar '14
Cross-currency swaps	2,532	126	528	(57)	Jan '08 – Jun '20
Derivatives related to energy	219	14	208	54	Sept '22

Our Equity Derivative Forward Contracts. In December 2007, CEMEX negotiated an equity forward contract covering approximately 47 million of CPOs with maturity in March 2008. The notional amount of the contract was approximately U.S.$121 million (Ps1,321 million). This contract was negotiated to hedge future exercises of options under CEMEX's executive stock option programs. During 2008, the hedge was increased to approximately 81 million CPOs with a notional amount of U.S.$206 million. During October 2008, a significant decrease in the price of CPOs accelerated the anticipated settlement of these contracts, which generated a loss of approximately U.S.$153 million (Ps2,102 million), recognized in the results for the period. See note 11C to our consolidated financial statements included elsewhere in this annual report. Likewise, in December 2006, CEMEX

sold in the market 50 million CPOs that it held in CEMEX's treasury for approximately Ps1,932 million. On the same date, CEMEX negotiated a forward contract for the same number of CPOs with maturity in December 2009. The notional amount of the contract was approximately U.S.$171 million (Ps2,003 million). This derivative was liquidated in 2007, generating a gain of approximately U.S.$13 million (Ps142 million) recognized in the income statement. See note 11C to our consolidated financial statements included elsewhere in this annual report.

In connection with the sale of shares of AXTEL (see note 8A to our financial statements) and in order to benefit from a future increase in the prices of such entity, on March 31, 2008, CEMEX entered into forward contracts with cash settlement over the price of 119 million CPOs of AXTEL with maturity in April 2011. The fair value of such contract as of December 31, 2008, was a loss of approximately U.S.$12 million (Ps165 million), including a deposit in margin accounts for U.S.$184 million (Ps2,528 million) which is presented net within liabilities, as a result of offsetting balances with the counterparty. Changes in the fair value of this instrument generated a loss in the income statement of approximately U.S.$196 million (Ps2,693 million). As of the date of this report, resulting from our recent derivatives transaction activitites, these contracts mature in October 2009. One of the counterparties has an option to maintain its transaction for 59.5 million CPOs of AXTEL until April 2011.

Our Other Forward Contracts. During 2008, CEMEX negotiated a forward contract over the TRI (Total Return Index) of the Mexican Stock Exchange, maturing in October 2009 through which CEMEX maintains exposure to increases or decreases of such index. TRI expresses the market return on stock based on market capitalization of the issuers comprising the index. See note 11C to our consolidated financial statements included elsewhere in this annual report.

Our Other Equity Derivative Contracts. These derivatives are described as options over the CPO price. In June 2008, CEMEX entered into a structured transaction, under which it issued debt for U.S.$500 million (Ps6,870 million) paying an interest expense of LIBOR plus 132.5 bps., which includes options over the price of CEMEX's ADSs. In case the ADS price exceeds U.S.$32, the net interest rate under the issuance is considered to be zero. This rate increases as the price of the share decreases, with a maximum rate of 12% when the share price is lower than U.S.$23 dollars. CEMEX measures the option over the price of the ADS at fair value, recognizing the amount in the income statement. The fair value includes a deposit in margin accounts of U.S.$69 million (Ps948 million), which is presented net within liabilities as a result of an offsetting agreement with the counterparty. See note 11C to our consolidated financial statements included elsewhere in this annual report.

Our Foreign Exchange Forward Contracts. As of December 31, 2007, in order to hedge financial risks associated with variations in foreign exchange rates of certain net investments in foreign countries denominated in Euros and Dollars vis-à-vis the Peso, and consequently reducing volatility in the value of stockholders' equity in CEMEX's reporting currency, CEMEX negotiated foreign exchange forward contracts with different maturities until 2010. Changes in the estimated fair value of these instruments were recorded in stockholders' equity as part of the foreign currency translation effect. In October 2008, as part of the closing process of positions exposed to fluctuations in exchange rates vis-à-vis the Peso previously described, CEMEX entered into foreign exchange forward contracts with opposite exposure to the original contracts. As a result of these new positions, changes in the fair value of the original instruments will be offset in results by an equivalent opposite amount generated by these new derivative positions. The designation of original positions as hedges of CEMEX's net exposure over investment in foreign subsidiaries in stockholders' equity ended when the contracts of new offsetting derivative positions ended in October 2008. Therefore, changes in fair value of original positions and new offsetting derivative positions are recognized prospectively in the income statement within the inactive derivative financial instruments (see note 11D to our consolidated financial statements included elsewhere in this annual report). Valuation effects were registered within comprehensive income until the accounting hedge was revoked, adjusting the cumulative effect for translation of foreign subsidiaries.

Between April and August 2007, in connection with the acquisition of Rinker, CEMEX negotiated foreign exchange forward contracts in order to hedge the variability in a portion of the cash flows associated with exchange fluctuations between the Australian dollar and the U.S. Dollar, the currency in which CEMEX obtained the proceeds. The notional amount of these contracts reached approximately U.S.$5,663 million in June 2007. Resulting from changes in the fair value of these contracts, upon settlement CEMEX realized a gain of approximately U.S.$137 million (Ps1,496 million), which was recognized in the 2007 results.

Our Interest Rate Swaps. As of December 31, 2007 and 2008, we held interest rate swaps for notional amounts of approximately U.S.$4,473 million and U.S.$15,319 million, respectively, entered into in order to hedge contractual cash flows (interest payments) of underlying debt negotiated at floating rates. Although these interest rate swap contracts are part of, and complement, our financial strategy, they generally do not meet the accounting hedge criteria. Consequently, changes in the estimated fair value of these instruments were recognized in earnings. As of December 31, 2007, there were no interest rate swaps which met the accounting hedge criteria and as of December 31, 2008, there were interest rate swaps with a nominal amount of U.S.$400 million that are accounted as cash flow hedges. Accordingly, changes in the estimated fair value of these instruments that meet the accounting hedge criteria are recognized as stockholders' equity representing a loss of U.S.$22 million in 2008, and will be reclassified to earnings as the financial expense of the related debt is accrued. In addition, periodic payments under these instruments that meet the accounting hedge criteria are recognized in earnings as an adjustment of the effective interest rate of the related debt. See note 11C to our consolidated financial statements included elsewhere in this annual report.

Our Cross-currency Swaps. As of December 31, 2007 and 2008, we held cross-currency swap contracts related to our short-term and long-term financial debt portfolio. Through these contracts, we carried out the exchange of the originally contracted currencies and interest rates, over a determined amount of underlying debt. During the life of these contracts, the cash flows originated by the exchange of interest rates under the cross-currency swap contracts match the interest payment dates and conditions of the underlying debt. Likewise, at maturity of the contracts and the underlying debt, we will exchange with the counterparty notional amounts provided by the contracts so that we will receive an amount of cash flow equal to cover our primary obligation under the underlying debt. In exchange, we will pay the notional amount in the exchanged currency. As a result, we have effectively exchanged the risks related to interest rates and foreign exchange variations of the underlying debt to the rates and currencies negotiated in the cross-currency swap contracts. See note 11C to our consolidated financial statements included elsewhere in this annual report.

The periodic cash flows on the cross-currency swap instruments arising from the exchange of interest rates are recorded in the comprehensive financing result as part of the effective interest rate of the related debt. We recognize the estimated fair value of the cross-currency swap contracts as assets or liabilities in the balance sheet, with changes in the estimated fair value being recognized through the income statement. All financial assets and liabilities with the same maturity, for which our intention is to simultaneously realize or settle, have been offset for presentation purposes, in order to reflect the cash flows that we expect to receive or pay upon settlement of the financial instruments.

In respect of the estimated fair value recognition of the cross-currency swap contracts, as of December 31, 2007 and 2008, we recognized net assets of U.S.$126 million (Ps1,376 million) and a net liability of U.S.$57 million (Ps783 million), respectively, related to the estimated fair value of all cross-currency swap contracts, both short-term and long-term.

For the years 2006, 2007 and 2008, changes in the fair value of cross-currency swaps, recognized in the results of the period, generated losses of U.S.$58 million (Ps679 million), U.S.$28 million (Ps306 million) and U.S.$216 million (Ps2,968 million), respectively.

The periodic interest rate cash flows under the cross-currency swaps were recognized within financial expense as part of the effective interest rate of the related debt. See note 11C to our consolidated financial statements included elsewhere in this annual report.

Our Derivatives Related to Energy Projects. As of December 31, 2007 and 2008, we had an interest rate swap maturing in September 2022, for notional amounts of U.S.$219 million and U.S.$208 million, respectively, negotiated to exchange floating for fixed interest rates, in connection with agreements we entered into for the acquisition of electric energy for a 20-year period commencing in 2003. During the life of the derivative contract and over its notional amount, we will pay LIBO rates and receive a 5.4% fixed rate until maturity in September 2022. In addition, during 2001, CEMEX sold a floor option, which had a notional amount of U.S.$149 million in 2006, and that was settled in 2007, generating a loss of U.S.$16 million (Ps175 million) in 2007. As of December 31, 2007, after giving effect to the settlement of the floor option, the fair value of the swap represented a gain of U.S.$14 million (Ps153 million). During 2008, the change in the fair value of this instrument generated a gain of approximately U.S.$40 million (Ps550 million). Changes in fair value of these contracts were recognized in earnings during the respective period. See note 11C part II to our consolidated financial statements included elsewhere in this annual report.

Our Derivative Instruments Related to Perpetual Equity Instruments . In connection with the issuance of the debentures by C5 Capital (SPV) Limited and C10 Capital (SPV) Limited in December 2006 described above, pursuant to which we pay a fixed Dollar rate of 6.196% on a notional amount of U.S.$350 million and a fixed Dollar rate of 6.722% on a notional amount of U.S.$900 million, respectively, we decided to change the foreign exchange exposure on the coupon payments from Dollars to Yen. In order to do so, we contemporaneously entered into two cross-currency swaps: a U.S.$350 million notional amount cross-currency swap, pursuant to which, for a five-year period, we receive a fixed rate in Dollars of 6.196% of the notional amount and pay six-month Yen LIBOR multiplied by a factor of 4.3531, and a U.S.$900 million notional amount cross-currency swap, pursuant to which, for a ten-year period, we receive a fixed rate in Dollars of 6.722% of the notional amount and pay six-month Yen LIBOR multiplied by a factor of 3.3878. Each cross-currency swap includes an extinguishable swap, which provides that if the relevant debentures are extinguished for certain stated conditions but before the maturity of the cross-currency swap, such cross-currency swap would be automatically extinguished, with no amounts payable by the swap counterparties. In addition, in order to eliminate variability during the first two years in the Yen-denominated payments due under the cross-currency swaps, we entered into foreign exchange forwards for a notional amount of U.S.$89 million, under which we pay Dollars and receive payments in Yen. Changes in fair value of all the derivative instruments associated with the perpetual debentures are recognized in the income statement as part of the comprehensive financing result.

In connection with the issuance of the debentures by C8 Capital (SPV) Limited and C10-EUR Capital (SPV) Limited in February and May 2007 described above, pursuant to which we pay a fixed Dollar rate of 6.640% on a notional amount of U.S.$750 million and a fixed Euro rate of 6.277% on a notional amount of €730 million, respectively, we decided to change the foreign exchange exposure on the coupon payments from Dollars and Euros to Yen. In order to do so, we contemporaneously entered into two cross-currency swaps: a U.S.$750 million notional amount cross-currency swap, pursuant to which, for an eight-year period, we receive a fixed rate in Dollars of 6.640% of the notional amount and pay six-month Yen LIBOR multiplied by a factor of 3.55248, and a €730 million notional amount cross-currency swap, pursuant to which, for a ten-year period, we receive a fixed rate in Euros of 6.277% of the notional amount and pay twelve-month Yen LIBOR multiplied by a factor of 3.1037. Each cross-currency swap includes an extinguishable swap, which provides that if the relevant debentures are extinguished for certain stated conditions but before the maturity of the cross-currency swap, such cross-currency swap would be automatically extinguished, with no amounts payable by the swap counterparties. In addition, in order to eliminate variability during the first two years in the Yen-denominated payments due under the cross-currency swaps, we entered into foreign exchange forwards for notional amounts of U.S.$273 million, under which CEMEX pays Dollars and receives payments in Yen. Changes in fair value of all the derivative instruments associated with the perpetual debentures are recognized in the income statement as part of the comprehensive financing result.

As noted above, we are currently in the process of terminating the derivative instruments related to the perpetual debentures.

Our Inactive Derivative Instruments Related to Perpetual Equity Instruments . In order to eliminate the exposure in positions of derivative instruments sensitive to fluctuations in the foreign exchange rate of the Mexican Peso against foreign currencies, and considering contractual limitations to extinguish contracts before their maturity date, between October 14 and 16, 2008, CEMEX contracted new derivative instruments with the same counterparties. These instruments represent the new derivative position, offset by fluctuations of the variables included in the original derivative instruments, effectively eliminating the volatility of these instruments in the income statement. As of December 31, 2008, derivative instruments involved in the restructuring are disclosed as inactive positions and their valuation effects are presented within “Other financial obligations” in the balance sheet and represented a net liability of U.S.$385 million (Ps5,290 million).

As of December 31, 2008, related to compensation agreements included in the contracts of derivative instruments, the balance of deposits in margin accounts of U.S.$198 million (Ps2,720 million) of inactive positions are presented net within CEMEX's liabilities with its counterparties. As of December 31, 2008, inactive derivative instruments are presented as follows:

	2008	
(millions of U.S. dollars)	Notional amount*	Fair value
Short-term Cross-currency Swaps ("CCS") original derivative position(1)	U.S.$ 460	(48)
Short-term CCS net offsetting derivative position	460	18
Long-term CCS original derivative position(2)	1,299	(257)
Long-term CCS net offsetting derivative position	1,299	58
Original CCS net of its offsetting derivative position		(229)
Deposit in margin accounts		126
		(103)
Short-term foreign exchange forward contracts original position(3)	2,616	(599)
Short-term foreign exchange forward contracts original position	2,616	270
Long-term foreign exchange forward contracts original position(4)	110	(30)
Long-term foreign exchange forward contracts net offsetting position	110	15
		(344)
Deposit in margin accounts		72
		(272)
CCS related to original debt position(5)	900	2
Forward contracts related to new offsetting debt position	900	(12)
		(10)
	U.S.$	(385)

* Notional amounts of original derivative positions and net offsetting derivative positions are not cumulative, considering that the effects of an instrument are proportionally inverse to the effect of other instrument, therefore, eliminated.

(1) The original derivative position refers to short-term CCS that exchange Ps4,938 million for U.S.$460 million, receiving an average rate of 9.0% in Mexican Pesos and paying a rate of 2.3% in Dollars, whose maturity is in May 2009. In the net offsetting derivative position, with the same maturities, the CCS exchange U.S.$460 million for Ps4,938 million, receiving a rate of 2.3% in Dollars and paying an average rate of 9.0% in Mexican Pesos.

(2) The original derivative position refers to long-term CCS that exchange Ps628 million *Unidades de Inversión*, or UDIs, and Ps11,450 million for U.S.$1,299 million, receiving an average rate of 4.0% in UDIs and 8.9% in Pesos, and paying a rate of 1.8% in Dollars, whose last maturity is in November 2017. In the net offsetting derivative position, with the same maturities, the CCS exchange U.S.$1,299 million for Ps628 million UDIs and Ps11,450 million, receiving a rate of 1.8% in Dollars and paying an average rate of 4.0% in UDIs and 8.9% in Pesos.

(3) The original derivative position refers to short-term foreign exchange forward contracts related to hedges of stockholders' equity for changes in the exchange rates of some foreign investments and include a notional amount of U.S.$1,759 million of Peso/Euro contracts and U.S.$857 million of Peso/Dollar contracts, whose last maturity is in September 2009. In the net offsetting derivative position, with the same maturities, a notional amount of U.S.$1,759 million is included in the Euro/Peso contracts and U.S.$857 million in the Dollar/Peso contracts.

(4) The original derivative position refers to long-term foreign exchange forward contracts related, like in the paragraph above, to hedges of stockholders' equity. They refer to forward Peso/Euro contracts, whose last maturity is in January 2010. In the net offsetting derivative position, Euro/Peso forward contracts were negotiated for a notional amount of U.S.$110 million.

(5) The original derivative position refers to CCS with maturity in June 2011 which exchange dollar per Japanese Yen, receiving a rate in Dollars of 2.8113% and paying a rate in Japanese Yen of 1.005%. In the net offsetting derivative position, for the same notional amount and until maturity, interest rate flows are exchanged for a Japanese Yen rate of 1.005% and paying a rate in Dollars of 2.8113%.

See "— Recent Developments — Recent Developments Relating To Our Financial Derivatives Instruments."

Our Other Commitments. In April 2008, Citibank entered into put option transactions on CEMEX's CPOs with a Mexican trust that CEMEX established on behalf of its Mexican pension fund and certain of CEMEX's directors and current and former employees (the "participating individuals"). The transaction was structured with two main components. Under the first component, the trust sold, for the benefit of CEMEX's Mexican pension fund, put options to Citibank in exchange for a premium of approximately U.S.$38 million. The premium was deposited into the trust and was used to purchase, on a prepaid forward basis, securities that track the performance of the Mexican Stock Exchange. Under the second component, the trust sold, on behalf of the participating individuals, additional put options to Citibank in exchange for a premium of approximately U.S.$38 million, which was used to purchase prepaid

forward CPOs. These prepaid forward CPOs, together with additional CPOs representing an equal amount in U.S. dollars, were deposited into the trust by the participating individuals as security for their obligations, and represent the maximum exposure of the participating individuals under this transaction. The put options gave Citibank the right to require the trust to purchase, in April 2013, approximately 112 million CPOs at a price of 3.2086 dollars per CPO (120% of the initial CPO price in dollars). If the value of the assets held in the trust (28.6 million CPOs and the securities that track the performance of the Mexican Stock Exchange) were insufficient to cover the obligations of the trust, a guarantee would be triggered and CEMEX, S.A.B. de C.V. would be required to purchase in April 2013 the total CPOs at a price per CPO equal to the difference between 3.2086 dollars and the market value of the assets of the trust. The purchase price per CPO in Dollars and the corresponding number of CPOs under this transaction are subject to dividend adjustments. As of December 31, 2008, the fair value of the guarantee granted by CEMEX, S.A.B. de C.V. was approximately U.S.$190 million (Ps2,611 million), an amount that was recognized as a provision against the income statement within "Results from financial instruments." Based on the guarantee, CEMEX, S.A.B. de C.V. was required to deposit approximately U.S.$193 million (Ps2,652 million) in margin accounts, which according to the agreements with the counterparty, were offset with the obligation, resulting in a net asset of approximately U.S.$3 million (Ps41 million).

Interest Rate Risk, Foreign Currency Risk and Equity Risk

Interest Rate Risk. The table below presents tabular information of our fixed and floating rate long-term foreign currency-denominated debt as of December 31, 2008. It includes the effects generated by the interest rate swaps and the cross-currency swap contracts that we have entered into, covering a portion of our financial debt originally negotiated in Pesos and Dollars. See note 11C to our consolidated financial statements included elsewhere in this annual report. Average floating interest rates are calculated based on forward rates in the yield curve as of December 31, 2008. Future cash flows represent contractual principal payments. The fair value of our floating rate long-term debt is determined by discounting future cash flows using borrowing rates available to us as of December 31, 2008 and is summarized as follows:

	Expected maturity dates as of December 31, 2008							
Long-Term Debt(1)	2009	2010	2011	2012	2013	After 2014	Total	Fair Value
	(millions of Dollars equivalents of debt denominated in foreign currencies)							
Variable rate	3,969	1,153	2,593	699	18	22	8,453	8,532
Average interest rate	1.64%	2.12%	2.60%	2.61%	2.88%	1.55%		
Fixed rate	206	810	4,020	577	106	1,854	7,572	8,497
Average interest rate	3.33%	3.38%	3.49%	4.94%	5.05%	5.39%		

(1) The information above includes the current maturities of the long-term debt. Total debt does not include the perpetual debentures for an aggregate amount of U.S.$3,020 million (approximately Ps41,495 million), issued by consolidated entities. See note 11B to our consolidated financial statements included elsewhere in this annual report.

As of December 31, 2008, we were subject to the volatility of the floating interest rates, which, if such rates were to increase, may adversely affect our financing cost and our net income. As of December 31, 2008, 75% of our foreign currency-denominated long-term debt bears floating rates at a weighted average interest rate of LIBOR plus 60 basis points, after giving effect to our interest rate swaps and cross-currency swaps. As of December 31, 2008, we also held interest rate swaps for a notional amount of U.S.$15,319 million and with a fair value loss of approximately U.S.$18 million, net of collateral, as of December 31, 2008. Pursuant to these interest rate swaps, we receive variable rates and deliver fixed rates over the notional amount. These derivatives, even when they do not meet the criteria to be considered hedging items for accounting purposes, complement our financial strategy and mitigate our overall exposure to floating rates. See "— Qualitative and Quantitative Market Disclosure — Our Derivative Financial Instruments — Our Interest Rate Swaps."

The potential change in the fair value as of December 31, 2008 of these contracts that would result from a hypothetical, instantaneous decrease of 50 basis points in the interest rates would be a loss of approximately U.S.$49 million (Ps673 million).

Foreign Currency Risk. Due to our geographic diversification, our revenues are generated in various countries and settled in different currencies. However, some of our production costs, including fuel and energy, and some of our cement prices, are periodically adjusted to take into account fluctuations in the Dollar/Peso exchange rate. For the year ended December 31, 2008, approximately 17% of our net sales, before eliminations resulting from consolidation, were generated in Mexico, 21% in the United States, 7% in Spain, 8% in the United Kingdom, 20%

in our Rest of Europe segment, 9% in South America, Central America and the Caribbean, 5% in Africa and the Middle East, 9% in Australia and Asia and 4% from other regions and our cement and clinker trading activities. As of December 31, 2008, our debt amounted to Ps258,094 million (approximately U.S.$18,784 million), of which approximately 67% was Dollar-denominated, 11% was Peso-denominated, 19% was Euro-denominated, 2% was Yen-denominated and immaterial amounts were denominated in other currencies; therefore, we had a foreign currency exposure arising from the Dollar-denominated debt, the Euro-denominated debt and the Yen-denominated debt, versus the currencies in which our revenues are settled in most countries in which we operate. See "— Liquidity and Capital Resources — Our Indebtedness," and "Item 3 — Key Information — Risk Factors — We have to service our Dollar denominated obligations with revenues generated in Pesos or other currencies, as we do not generate sufficient revenue in Dollars from our operations to service all our Dollar denominated obligations. This could adversely affect our ability to service our obligations in the event of a devaluation or depreciation in the value of the Peso, or any of the other currencies of the countries in which we operate, compared to the Dollar. In addition, our consolidated reported results and outstanding indebtedness are significantly affected by fluctuations in exchange rates between the Peso and other currencies." Although we also have a small portion of our debt in other currencies, we have generated enough cash flow in those currencies to service that debt. Therefore, we believe there is no material foreign currency risk exposure with respect to that debt. As previously mentioned, we have entered into cross-currency swap contracts, designed to change the original profile of interest rates and currencies over a portion of our financial debt. See "— Our Derivative Financial Instruments." As of December 31, 2008, the estimated fair value of these instruments was a loss of approximately U.S.$24 million (Ps330 million). The potential change in the fair value of these contracts as of December 31, 2008 that would result from a hypothetical, instantaneous depreciation of 10% in the exchange rate of the Peso against the Dollar, would be a loss of approximately U.S.$73 million (Ps1,003 million).

Equity Risk. As described above, we have entered into equity forward contracts on our own stock. Upon liquidation and at our option, the equity forward contracts provide for physical settlement or net cash settlement of the estimated fair value and the effects are recognized in the income statement. At maturity, if these forward contracts are not settled or replaced, or if we default on these agreements, our counterparties may sell the shares underlying the contracts. Such sales may have an adverse effect on our stock market price. Under our equity forward contracts, there is a direct relationship in the change in the fair value of the derivative with the change in value of the underlying asset.

Investments, Acquisitions and Divestitures

The transactions described below represent our principal investments, acquisitions and divestitures completed during 2006, 2007 and 2008.

Investments and Acquisitions

On July 1, 2007, for accounting purposes, we completed the acquisition of 100% of the Rinker shares for a total consideration of approximately U.S.$14.2 billion (approximately Ps155.6 billion) (excluding the assumption of approximately U.S.$1.3 billion (approximately Ps13.9 billion) of Rinker's debt).

On January 1, 2006, CEMEX acquired a 51% equity interest in a cement-grinding mill facility with capacity of 400,000 tons per year in Guatemala for approximately U.S.$17 million (approximately Ps204 million).

On March 2, 2006, we acquired two companies engaged in the ready-mix concrete and aggregates business in Poland from Unicon A/S, a subsidiary of Cementir Group, an Italian cement producer, for approximately €12 million.

On March 20, 2006, we agreed to terminate our lease on the Balcones cement plant located in New Braunfels, Texas prior to expiration, and purchased the Balcones cement plant for approximately U.S.$61 million.

In addition to the above-mentioned acquisitions, our net investment in property, machinery and equipment, as reflected in our consolidated financial statements (see note 9 to our consolidated financial statements included elsewhere in this annual report), excluding acquisitions of equity interests in subsidiaries and associates, was

approximately Ps18,044 million (U.S.$1,652 million) in 2006, Ps22,289 million (U.S.$2,041 million) in 2007 and Ps23,900 million (U.S.$2,132 million) in 2008. This net investment in property, machinery and equipment has been applied to the construction and upgrade of plants and equipment, to the maintenance of plants and equipment, including environmental controls and technology updates.

In 2009, we have allocated over U.S.$650 million to continue with this effort.

Divestitures

On June 15, 2009, we sold three quarries (located in Nebraska, Wyoming and Utah) and our 49% joint venture interest in the operations of a quarry located in Granite Canyon, Wyoming, to Martin Marietta Materials, Inc. for U.S.$65 million.

On June 15, 2009, we announced our agreement to sell all our Australian operations to Holcim for approximately 2.02 billion Australian Dollars (approximately U.S.$1.62 billion considering the exchange rate of 1.25 AUD$ per US Dollar at June 15, 2009). All the proceeds of the sale will be used to reduce debt. The transaction is subject to regulatory approval, due diligence and other closing conditions. Our facilities in Australia include 249 ready-mix plants, 83 aggregate quarries, 16 concrete pipe and precast products plants, and our 25% stake in Cement Australia.

On December 26, 2008, we sold our Canary Islands operations (consisting of cement and ready-mix concrete assets in Tenerife and 50% of the shares in two joint-ventures, Cementos Especiales de las Islas, S.A. (CEISA) and Inprocoi, S.L.) to several Spanish subsidiaries of Cimpor Cimentos de Portugal SGPS, S.A. for €162 million (approximately U.S.$227 million).

On July 31, 2008, we agreed to sell our operations in Austria (consisting of 26 aggregates and 41 ready-mix concrete plants) and Hungary (consisting of 6 aggregates, 29 ready-mix concrete and 4 paving stone plants) to Strabag SE, one of Europe's leading construction and building materials groups, for €310 million (approximately U.S.$433 million). On February 11, 2009, the HCC approved the sale subject to the condition that the purchaser sell the ready-mix concrete plant operating in Salgótarján to a third party within the next year. The transaction is still subject to regulatory approval by the Austrian competition authorities. The purchaser has appealed several conditions imposed by the Austrian competition authorities, which we expect will delay the completion of the sale by at least two months.

During 2008, we sold in several transactions our operations in Italy consisting of four cement grinding mill facilities for an aggregate amount of approximately €148 million (approximately U.S.$210 million).

As required by the Antitrust Division of the United States Department of Justice, pursuant to a divestiture order in connection with the Rinker acquisition, in December 2007, we sold to the Irish producer CRH plc, ready-mix concrete and aggregates plants in Arizona and Florida for approximately U.S.$250 million, of which approximately U.S.$30 million corresponded to the sale of assets from our pre-Rinker acquisition operations.

During 2006 we sold our 25.5% interest in the Indonesian cement producer PT Semen Gresik for approximately U.S.$346 million (approximately Ps4,053 million) including dividends declared of approximately U.S.$7 million (approximately Ps82 million).

On March 2, 2006, we sold 4K Beton A/S, our Danish subsidiary, which operated 18 ready-mix concrete plants in Denmark, to Unicon A/S, a subsidiary of Cementir Group, an Italian cement producer, for approximately €22 million. As part of the transaction, we purchased from Unicon A/S two companies engaged in the ready-mix concrete and aggregates business in Poland for approximately €12 million. We received net cash proceeds of approximately €6 million, after cash and debt adjustments, from this transaction.

On July 1, 2005, we and Ready Mix USA established two jointly-owned limited liability companies, CEMEX Southeast, LLC, a cement company, and Ready Mix USA, LLC, a ready-mix concrete company, to serve the construction materials market in the southeast region of the United States. Under the terms of the limited liability company agreements and related asset contribution agreements, we contributed two cement plants

(Demopolis, Alabama and Clinchfield, Georgia) and 11 cement terminals to CEMEX Southeast, LLC, representing approximately 98% of its contributed capital, while Ready Mix USA contributed cash to CEMEX Southeast, LLC representing approximately 2% of its contributed capital. In addition, we contributed our ready-mix concrete, aggregates and concrete block assets in the Florida panhandle and southern Georgia to Ready Mix USA, LLC, representing approximately 9% of its contributed capital, while Ready Mix USA contributed all its ready-mix concrete and aggregate operations in Alabama, Georgia, the Florida panhandle and Tennessee, as well as its concrete block operations in Arkansas, Tennessee, Mississippi, Florida and Alabama to Ready Mix USA, LLC, representing approximately 91% of its contributed capital. We own a 50.01% interest, and Ready Mix USA owns a 49.99% interest, in the profits and losses and voting rights of CEMEX Southeast, LLC, while Ready Mix USA owns a 50.01% interest, and we own a 49.99% interest, in the profits and losses and voting rights of Ready Mix USA, LLC. In a separate transaction, on September 1, 2005, we sold 27 ready-mix concrete plants and four concrete block facilities located in the Atlanta, Georgia metropolitan area to Ready Mix USA, LLC for approximately U.S.$125 million. In January 2008, we and Ready Mix USA agreed to expand the scope of the Ready-Mix USA, LLC joint venture. As part of the transaction, which closed on January 11, 2008, we contributed assets valued at approximately $260 million to the joint venture and sold additional assets to the joint venture for approximately $120 million in cash. As part of the transaction, Ready Mix USA made a $125 million cash contribution to the joint venture and the joint venture made a $135 million special distribution to us. Ready Mix USA will manage all the newly acquired assets. Following the transaction, the joint venture continues to be owned 50.01% by Ready Mix USA and 49.99% by us. The assets contributed and sold by CEMEX include: 11 concrete plants, 12 limestone quarries, four concrete maintenance facilities, two aggregate distribution facilities and two administrative offices in Tennessee; three granite quarries and one aggregates distribution facility in Georgia; and one limestone quarry and one concrete plant in Virginia. All these assets were acquired by us through our acquisition of Rinker.

See note 10A to our consolidated financial statements included elsewhere in this annual report.

U.S. GAAP Reconciliation

Majority net loss under U.S. GAAP for the year ended December 31, 2008 amounted to Ps61,886 million, compared to majority net income under MFRS for the year ended December 31, 2008 of approximately Ps2,278 million. Majority net income under U.S. GAAP for the years ended December 31, 2007, and 2006 amounted to Ps21,367 million and Ps26,384 million, respectively, compared to majority net income under MFRS for the years ended December 31, 2007 and 2006 of approximately Ps26,108 million and Ps26,704 million, respectively. During 2008, the reconciliation of net income (loss) to U.S. GAAP include reconciling items representing an aggregate loss of approximately Ps64,164 million which includes approximately Ps46,077 million of additional impairment losses under U.S. GAAP, a reduction of approximately Ps7,778 million in the income tax benefits determined under MFRS and approximately Ps7,716 million of foreign exchange losses that are recognized within equity under MFRS, among other effects. See note 25 to our consolidated financial statements included elsewhere in this annual report for a description of the principal differences between MFRS and U.S. GAAP as they relate to us and the effects that newly issued accounting pronouncements have had in our financial position.

Newly Issued Accounting Pronouncements Under U.S. GAAP with effect in 2008

On January 1, 2008, under U.S. GAAP, CEMEX adopted SFAS 157, *Fair Value Measurements* ("SFAS 157") for fair value measurements of financial assets and financial liabilities and for fair value measurements of nonfinancial items that are recognized or disclosed at fair value in the financial statements on a recurring basis.

FASB Staff Position FAS 157-2, *Effective date of FASB Statement 157* ("FSP 157-2"), delays the effective date of SFAS 157 until fiscal years beginning after November 15, 2008 for all nonfinancial assets and nonfinancial liabilities that are recognized or disclosed at fair value in the financial statement s on a recurring basis. At December 31, 2008, the categories of assets and liabilities to which CEMEX has not applied the provisions of SFAS 157 in accordance to FSP 157-2 include: nonfinancial assets and liabilities initially measured at fair value in a business combination, nonfinancial long-lived assets measured at fair value for impairment assessment, and asset retirement obligations. Additionally, the provisions of SFAS 157 were not applied to fair value measurements of CEMEX's goodwill impairment test performed under SFAS 142 (first step) and nonfinancial assets and nonfinancial liabilities measured at fair value to determine the amount of goodwill impairment (second step). On January 1, 2009, CEMEX

will be required to apply the provisions of SFAS 157 to fair value measurements of nonfinancial assets and nonfinancial liabilities that are recognized or disclosed at fair value in the financial statements on a nonrecurring basis. CEMEX is currently evaluating the impact, if any, of applying these provisions on its financial position and results of operations.

Under MFRS, in addition to its trading securities which are recorded at their quoted market prices, CEMEX has recognized all its derivative financial instruments at their estimated fair value (see notes 11C and D to our consolidated financial statements included elsewhere in this annual report). For purposes of MFRS, fair value is the amount for which an asset could be exchanged, a liability settled, or an equity instrument granted could be exchanged between knowledgeable, willing parties in an arm's length transaction. Beginning in 2008 under U.S. GAAP, the concept of fair value was redefined by SFAS 157 as an "Exit Value", which is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Basically, the difference between the fair value under MFRS, which is equivalent to a settlement amount at the balance sheet date, and the Exit Value under U.S. GAAP, is that the later considers the counterparty's credit risk in the valuation.

The concept of Exit Value works under the premise that there is a market and market participants for the specific asset or liability. When there is no market and/or market participants willing to make a market, SFAS 157 establishes a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to measurements involving significant unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are as follows:

- Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that CEMEX has the ability to access at the measurement date;
- Level 2 inputs are inputs other than quoted prices that are observable for the asset or liability, either directly or indirectly; and
- Level 3 inputs are unobservable inputs for the asset or liability.

The fair values determined by CEMEX for its derivative financial instruments are Level 2. There is no direct measure for the risk of CEMEX or its counterparties in connection with the derivative instruments. Therefore, the risk factors applied for CEMEX's assets and liabilities originated by the valuation of such derivatives were extrapolated from publicly available risk discounts for other public debt instruments of CEMEX and its counterparties. The following table presents a comparison of fair values between MFRS and U.S. GAAP and the corresponding reconciling adjustment at December 31, 2008, representing a gain of approximately US$95 million (Ps1,305 million (Ps960 million after applicable deferred income tax)):

(U.S. dollars million)	MFRS	U.S.GAAP	Adjustment
Active derivative instruments (note 11C)			
Derivative financial instruments related to debt	U.S.$ (4)	5	9
Other derivative financial instruments	(36)	(14)	22
Derivative financial instruments related to equity instruments	222	240	18
	182	231	49
Inactive derivative instruments (note 11D)			
Cross-currency swaps	(101)	(64)	37
Foreign exchange forward contracts	(284)	(275)	9
	(385)	(339)	46
Total	U.S.$ (203)	(108)	95

As mentioned in note 11B to our consolidated financial statements, the fair value amounts under both MFRS and U.S. GAAP presented above at December 31, 2008, include approximately U.S.$570 million (Ps7,382 million) of deposits in margin accounts with financial institutions, of which U.S.$372 million (Ps5,111 million) is related to active positions and U.S.$198 million (Ps2,720 million) to inactive positions.

SFAS 159, *The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115* ("SFAS 159"), provides entities with an option to measure many financial instruments and certain other items at fair value. Under SFAS 159, unrealized gains and losses on items for which the fair value option has been elected are reported in earnings at each reporting period. As of and for the year ended December 31, 2008, CEMEX did not elect to measure any financial instruments or other items at fair value.

Newly Issued Accounting Pronouncements Under U.S. GAAP not effective in 2008

In December 2007, the FASB issued SFAS 141(R), *Business Combinations* ("SFAS 141R"), and SFAS 160, *Noncontrolling Interests in Consolidated Financial Statements – an amendment to ARB No. 51* ("SFAS 160"). SFAS 141(R) and SFAS 160 require most identifiable assets, liabilities, noncontrolling interests, and goodwill acquired in a business combination to be recorded at "full fair value" and require noncontrolling interests (previously referred to as minority interests) to be reported as a component of equity, which changes the accounting for transactions with noncontrolling interest holders. Both statements are effective for periods beginning on or after December 15, 2008, and earlier adoption is prohibited. SFAS 141(R) will be applied to business combinations occurring after the effective date. SFAS 160 will be applied prospectively to all noncontrolling interests, including any that arose before the effective date. Upon adoption of SFAS 160, CEMEX would reverse the adjustment made in the reconciliation of stockholders' equity to U.S. GAAP in order to reclassify the noncontrolling interest under MFRS to the liability section under U.S. GAAP (see note 25(e) to our consolidated financial statements included elsewhere in this annual report). CEMEX is currently evaluating the impact of adopting SFAS 141(R) on its financial position and results of operations.

In February 2008, the FASB issued FASB Staff Position FAS 140-3, *Accounting for Transfers of Financial Assets and Repurchase Financing Transactions.* The objective of the FSP is to provide guidance on accounting for a transfer of a financial asset and repurchase financing. The FSP presumes that an initial transfer of a financial asset and a repurchase financing are considered part of the same arrangement (linked transaction). However, if certain criteria are met, the initial transfer and repurchase financing shall not be evaluated as a linked transaction and shall be evaluated separately under SFAS 140. FSP FAS 140-3 is effective for annual and interim periods beginning after November 15, 2008 and early adoption is not permitted. CEMEX is currently evaluating the provisions of this standard, but does not expect adoption to have a material impact on its financial position and results of operations.

In March 2008, the FASB issued SFAS 161, *Disclosures about Derivative Instruments and Hedging Activities—an amendment of FASB Statement No. 133* ("SFAS 161"). SFAS 161 requires entities that utilize derivative instruments to provide qualitative disclosures about their objectives and strategies for using such instruments, as well as any details of credit-risk-related contingent features contained within derivatives. SFAS 161 also requires entities to disclose additional information about the amounts and location of derivatives located within the financial statements, how the provisions of SFAS 133 have been applied, and the impact that hedges have on an entity's financial position, financial performance, and cash flows. SFAS 161 is effective for fiscal years and interim periods beginning after November 15, 2008. CEMEX is currently evaluating the impact of SFAS 161 on the disclosures about its hedging activities and use of derivatives.

In April 2008, the FASB issued FASB Staff Position FAS 142-3, *Determination of the Useful Life of Intangible Assets*. FSP FAS 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS 142. FSP FAS 142-3 is effective for fiscal years beginning after December 15, 2008. CEMEX is currently evaluating the impact, if any, of adopting FSP FAS 142-3 on its financial position and results of operations.

In June 2008, the FASB's Emerging Issues Task Force reached a consensus on EITF Issue No. 07-5, *Determining Whether an Instrument (or Embedded Feature) Is Indexed to an Entity's Own Stock*. This EITF Issue provides guidance on the determination of whether such instruments are classified in equity or as a derivative instrument. CEMEX will adopt the provisions of EITF 07-5 on January 1, 2009. CEMEX is currently evaluating the impact, if any, of adopting EITF 07-5 on its financial position and results of operations.

In November 2008, the FASB's Emerging Issues Task Force reached a consensus on EITF Issue No. 08-6, *Equity Method Investment Accounting Considerations u i t y Method of Accounting for*

Investments in Common Stock, which is based on a cost accumulation model and generally excludes contingent consideration. EITF 08-6 also specifies that other-than-temporary impairment testing by the investor should be performed at the investment level and that a separate impairment assessment of the underlying assets is not required. An impairment charge by the investee should result in an adjustment of the investor's basis of the impaired asset for the investor's pro-rata share of such impairment. In addition, EITF 08-6 reached a consensus on how to account for an issuance of shares by an investee that reduces the investor's ownership share of the investee. An investor should account for such transactions as if it had sold a proportionate share of its investment with any gains or losses recorded through earnings. EITF 08-6 also addresses the accounting for a change in an investment from the equity method to the cost method after adoption of SFAS 160. EITF 08-6 affirms the existing guidance in APB 18, which requires cessation of the equity method of accounting and application of SFAS 115, *Accounting for Certain Investments in Debt and Equity Securities* , or the cost method under APB 18, as appropriate. EITF 08-6 is effective for transactions occurring on or after December 15, 2008. We do not anticipate that the adoption of EITF 08-6 will materially impact CEMEX's financial position or results of operations.

In December 2008, the FASB issued FASB Staff Position FAS 132(R)-1, *Employers' Disclosures about Postretirement Benefit Plan Assets*. FSP FAS 132(R)-1 provides guidance on an employer's disclosures about plan assets of a defined benefit pension or other postretirement plan. FSP FAS 132(R)-1 also includes a technical amendment to SFAS 132(R), effective immediately, which requires nonpublic entities to disclose net periodic benefit cost for each annual period for which an income statement is presented. CEMEX has disclosed net periodic benefit cost in note 13 to our consolidated financial statements included elsewhere in this annual report. The disclosures about plan assets required by FSP FAS 132(R)-1 must be provided for fiscal years ending after December 15, 2009. CEMEX is currently evaluating this impact of the FSP on its disclosures about plan assets.

Item 6 - Directors, Senior Management and Employees

Senior Management and Directors

Senior Management

On May 1, 2009, we announced a reorganization of our senior management in order to align responsibilities with the current situation of the company, and to bring new perspectives and opportunities to reinforce our operational and financial performance. Set forth below is the name and position of each of our executive officers as of May 15, 2009. The terms of office of the executive officers are indefinite.

Lorenzo H. Zambrano, Chief Executive Officer	Joined CEMEX in 1968. During his career with CEMEX, Mr. Zambrano has been involved in all operational aspects of our business. He held several positions in CEMEX prior to his appointment as director of operations in 1981. In 1985, Mr. Zambrano was appointed chief executive officer, and in 1995 he was elected chairman of the board of directors. Mr. Zambrano is a graduate of Instituto Tecnológico y de Estudios Superiores de Monterrey, A.C., or ITESM, with a degree in mechanical engineering and administration and holds an M.B.A. from Stanford University. Mr. Zambrano has been a member of our board of directors since 1979 and chairman of our board of directors since 1995. He is a member of the board of directors of IBM and the International Advisory Board of Citigroup. He is also a member of the board of directors of Fomento Económico Mexicano, S.A.B. de C.V., and Grupo Financiero Banamex, S.A. de C.V. Mr. Zambrano is chairman of the board of directors of Consejo de Enseñanza e Investigación Superior, A.C., which manages ITESM, and a member of the board of directors of Museo de Arte Contemporáneo de Monterrey A.C. (MARCO). Mr. Zambrano participated in the Chairman's Council of Daimler Chrysler

	AG until 2005, was a member of the Stanford University's Graduate School of Business Advisory Council until 2006, of the board of directors of Vitro, S.A.B. until 2007, of the board of directors of Alfa, S.A.B. de C.V. until 2008, and of the board of directors of Grupo Televisa S.A.B. until April 2009. In recognition of his business and philanthropic record, Mr. Zambrano has received several awards and recognitions, including the Woodrow Wilson Center's Woodrow Wilson Award for Corporate Citizenship, the America's Society Gold Medal Distinguished Service Award, and Stanford University's Graduate School of Business Alumni Association's Ernest C. Arbuckle Award. Lorenzo H. Zambrano is a first cousin of Lorenzo Milmo Zambrano and Rogelio Zambrano Lozano, both members of our board of directors, as well as of Rodrigo Treviño, our chief financial officer.
Héctor Medina, Executive Vice President of Finance and Legal	Joined CEMEX in 1988. He has held several positions in CEMEX, including director of strategic planning from 1991 to 1994, president of CEMEX México from 1994 to 1996, executive vice president of planning and finance from 1996 to 2009, and executive vice president of finance and legal since 2009. He is a graduate of ITESM with a degree in chemical engineering and administration. He also received a Master of Science degree in Management Studies from the Management Center of the University of Bradford in England, and a Master of Science diploma in Operations Research from the Escuela de Organización Industrial in Spain. Among the positions he previously held are those of Project Director at Grupo Protexa, S.A. de C.V., Administrative Director at Grupo Xesa, S.A. de C.V., Commercial Director at Direcplan, S.A., and Industrial Relations Sub-Director at Hylsa, S.A. de C.V. Mr. Medina is a member of the board of directors of Cementos Chihuahua, S.A.B. de C.V., Mexifrutas, S.A. de C.V., Axtel, S.A.B. de C.V., and Banco de Ahorro FAMSA. He is also chairman of the board of directors of Universidad Regiomontana, member of the oversight board of Enseñanza e Investigación Superior A.C. and ITESM, and of the advisory board of Nacional Monte de Piedad.
Armando J. García Segovia, Executive Vice President of Technology, Energy and Sustainability	Initially joined CEMEX in 1975 and rejoined CEMEX in 1985. He has served as director of operational and strategic planning from 1985 to 1988, director of operations from 1988 to 1991, director of corporate services and affiliate companies from 1991 to 1994, director of development from 1994 to 1996, general director of development from 1996 to 2000, and executive vice president of development from 2000 to May 2009. On May 1, 2009, Mr. Garcia was appointed executive vice president for technology, energy and sustainability. He is a graduate of ITESM with a degree in mechanical engineering and administration and holds an M.B.A. from the University of Texas. He was employed at Cydsa, S.A. from 1979 to 1981 and at Conek, S.A. de C.V. from 1981 to 1985. Mr. García has been a member of our board of directors since 1983. He also serves as a member of the board of directors of Grupo Cementos de Chihuahua, S.A.B. de C.V., and GCC Cemento, S.A. de C.V. He was also vice president of COPARMEX, member of the board and former chairman of the Private Sector Center for Sustainable

	Development Studies (*Centro de Estudios del Sector Privado para el Desarrollo Sostenible*), and member of the board of the World Environmental Center. He is also founder and chairman of the board of Comenzar de Nuevo, A.C. He is a first cousin of Rodolfo García Muriel, a member of our board of directors.
Víctor Romo, Executive Vice President of Administration	Joined CEMEX in 1985 and has served as director of administration of CEMEX España from 1992 to 1994, general director of administration and finance of CEMEX España from 1994 to 1996, president of CEMEX Venezuela from 1996 to 1998, president of the South American and Caribbean region from 1998 to May 2003, and executive vice president of administration since May 2003. He is a certified public accountant and holds a master's degree in administration and finance from ITESM. Previously, he worked for Grupo Industrial Alfa, S.A. de C.V. from 1979 to 1985.
Fernando A. González, Executive Vice President of Planning and Development	Joined CEMEX in 1989, and has served as corporate vice-president of strategic planning from 1994 to 1998, president of CEMEX Venezuela from 1998 to 2000, president of CEMEX Asia from 2000 to May 2003, and president of the South American and Caribbean region from May 2003 to February 2005. In March 2005, he was appointed president of the expanded European Region, in February 2007, President of the Europe, Middle East, Africa, Asia and Australia Region, and in May 2009, executive vice president of planning and development. Mr. González earned his B.A. and M.B.A. degrees from ITESM.
Francisco Garza, President of the Americas Region	Joined CEMEX in 1988 and has served as director of trading from 1988 to 1992, president of CEMEX USA from 1992 to 1994, president of CEMEX Venezuela from 1994 to 1996 and Cemento Bayano from 1995 to 1996, president of CEMEX Mexico and CEMEX USA from 1996 to 1998, president of the North American region and trading from 1998 to 2009. In 2009 he was appointed president of the Americas region. He is a graduate in business administration from ITESM and holds an M.B.A. from the Johnson School of Management at Cornell University in 1982.
Juan Romero Torres, President of the Europe, Middle East, Africa, Asia and Australia Region	Joined CEMEX in 1989 and has occupied several senior management positions, including president of CEMEX Colombia, president of CEMEX Mexico, and president of the South America and Caribbean region. In May 2009, he was appointed president of the Europe, Middle East, Africa, Asia and Australia region. Mr. Romero graduated from Universidad de Comillas in Spain, where he studied Law and Economic and Enterprise Sciences.
Rodrigo Treviño, Chief Financial Officer	Joined CEMEX in 1997 and has served as chief financial officer since then. He holds both Bachelor and Master of Science degrees in industrial engineering from Stanford University. Prior to joining CEMEX, he served as the country corporate officer for Citicorp/Citibank Chile from 1995 to 1996, and worked at Citibank, N.A. from 1979 to 1994. Mr. Treviño is a first cousin of Lorenzo H. Zambrano, our chief executive officer and chairman of our board of directors.

Ramiro G. Villarreal, General Counsel	Joined CEMEX in 1987 and has served as general counsel since then, and also has served as secretary of our board of directors since 1995. He is a graduate of the Universidad Autónoma de Nuevo León with a degree in law. He also received a Master of Science degree in finance from the University of Wisconsin. Prior to joining CEMEX, he served as assistant general director of Grupo Financiero Banpais from 1985 to 1987.

Board of Directors

Set forth below are the names of the current members of our board of directors, elected at our 2009 annual shareholders' meeting held on April 23, 2009. At this shareholders' meeting, no alternate directors were elected. Members of our board of directors serve for one-year terms.

Lorenzo H. Zambrano, Chairman	See "— Senior Management."
Lorenzo Milmo Zambrano	Has been a member of our board of directors since 1977. He is also chief executive officer of Inmobiliaria Ermiza, S.A. de C.V. He is a first cousin of Lorenzo H. Zambrano, chairman of our board of directors and our chief executive officer, a first cousin of Rogelio Zambrano Lozano, and an uncle of Tomas Milmo Santos, both members of our board of directors.
Armando J. García Segovia	See "— Senior Management."
Rodolfo García Muriel	Has been a member of our board of directors since 1985. He is the chief executive officer of Compañía Industrial de Parras, S.A. de C.V. He is a member of the board of directors of Inmobiliaria Romacarel, S.A.P.I. de C.V., Comfort Jet, S.A. de C.V., and member of the regional board of Banamex. Mr. García Muriel is also vice president of the Textile Industry National Chamber (*Cámara Nacional de la Industria Textil*). He is a first cousin of Armando J. García Segovia, executive vice president of technology, energy and sustainability of CEMEX and a member of our board of directors.
Rogelio Zambrano Lozano	Has been a member of our board of directors since 1987. He is also a member of the advisory board of Grupo Financiero Banamex Accival, S.A. de C.V., Zona Norte, and member of the boards of directors of Carza, S.A. de C.V., Plaza Sesamo, S.A. de C.V., Hospital San José, and ITESM. He is a first cousin of Lorenzo H. Zambrano, chairman of our board of directors and our chief executive officer, and a first cousin of Lorenzo Milmo Zambrano, a member of our board of directors.
Roberto Zambrano Villarreal	Has been a member of our board of directors since 1987. He was president of our audit committee from 2002 to 2006, president of our corporate practices and audit committee from 2006 to 2009, and president of our new audit committee since 2009. He is also a member of the board of directors of CEMEX México, S.A. de C.V. He is chairman of the board of directors of Desarrollo Integrado, S.A. de C.V., Administración Ficap, S.A. de C.V., Aero Zano, S.A. de C.V., Ciudad Villamonte, S.A. de C.V., Focos, S.A. de C.V., C & I Capital, S.A. de C.V., Industrias Diza, S.A. de C.V., Inmobiliaria Sanni, S.A. de C.V., Inmuebles Trevisa, S.A. de C.V., Servicios Técnicos Hidráulicos, S.A. de C.V., Mantenimiento Integrado, S.A. de C.V., Pilatus PC-12 Center de México, S.A. de C.V., and Pronatura, A.C. He is a member of the board of directors of S.L.I. de México, S.A. de

	C.V., and Compañía de Vidrio Industrial, S.A. de C.V. He is a brother of Mauricio Zambrano Villarreal, a member of our board of directors and of our corporate practices and audit committee.
Bernardo Quintana Isaac	Has been a member of our board of directors since 1990. He is chairman of the board of directors of Empresas ICA, S.A.B. de C.V., where he was also chief executive officer until December, 2006. Mr. Quintana Isaac is president of Grupo Aeroportuario del Centro Norte, S.A.B. de C.V., and member of the board of Grupo Financiero Banamex, S.A. de C.V., and Banco Nacional de México, S.A. He is also a member of the Mexican Council of Businessmen (Consejo Mexicano de Hombres de Negocios), president of the Foundation for Mexican Letters (*Fundación para las Letras Mexicanas*), Fundación UNAM, Fundación ICA, and Patronato UNAM.
Dionisio Garza Medina	Has been a member of our board of directors since 1995, and president of our corporate practices committee since 2009. He is chairman of the board and chief executive officer of Alfa, S.A.B. de C.V. He is also chairman of the executive board of the Universidad de Monterrey and a member of the Mexican Council of Businessmen (*Consejo Mexicano de Hombres de Negocios*), the advisory committee of the David Rockefeller Center for Latin American Studies of Harvard University, and the advisory committee of the New York Stock Exchange.
Alfonso Romo Garza	Has been a member of our board of directors since 1995, member of our Audit Committee from 2002 to 2006, member of our Corporate Practices and Audit Committee from 2006 to 2009, and member of our new Audit Committee since 2009. He is chairman of the board and chief executive officer of Savia, S.A. de C.V. and member of the boards of Grupo Maseca, S.A.B. de C.V., The Donald Danforth Plant Science Center, and Synthetic Genomics, among others.
Mauricio Zambrano Villarreal	Has been a member of our board of directors since 2001, and member of our corporate practices and audit committee since 2006. Mr. Zambrano Villarreal served as an alternate member of our board of directors from 1995 to 2001. He is also general vice-president of Desarrollo Integrado, S.A. de C.V., chairman of the board of directors of Empresas Falcón, S.A. de C.V., Alimentos Selectos Falcón, S.A. de C.V., and Trek Associates, Inc., secretary of the board of directors of Administración Ficap, S.A. de C.V., Aero Zano, S.A. de C.V., Ciudad Villamonte, S.A. de C.V., Focos, S.A. de C.V., Compañía de Vidrio Industrial, S.A. de C.V., C & I Capital, S.A. de C.V., Industrias Diza, S.A. de C.V., Inmuebles Trevisa, S.A. de C.V., and Servicios Técnicos Hidráulicos, S.A. de C.V., and member of the board of directors of Invercap Holdings, S.A. de C.V. He is a brother of Roberto Zambrano Villarreal, a member of our board of directors and president of our corporate practices and audit committee.
Tomás Milmo Santos	Has been a member of our board of directors since 2006. Mr. Milmo Santos served as an alternate member of our board of directors from 2001 to 2006. He is chief executive officer and president of the board of directors of Axtel, S.A.B. de C.V., a telecommunications company that operates in the local, long distance and data transfer market. He is also a member of the board of directors of Cemex México S.A. de C.V., HSBC Mexico, and ITESM. Mr. Milmo Santos is a nephew of Lorenzo Milmo Zambrano, a member of our board of directors.

Luis Santos de la Garza	Has been a member of our board of directors since 2009. He also served as statutory examiner (*comisario*) from 1989 to 2006, and as an alternate member of our board of directors from 2006 to 2009. Mr. Santos de la Garza was federal senator for the State of Nuevo León from 1997 to 2007, and was an advisor to the Legal Counsel of the Mexican President from 2001 to 2002. He is a founding partner of the law firm Santos-Elizondo-Cantú-Rivera-González-De la Garza-Mendoza, S.C.
José Manuel Rincón Gallardo	Has been a member of our board of directors since 2003. He is also a member of our audit committee, where he qualifies as a "financial expert" for purposes of the Sarbanes-Oxley Act of 2002. He is president of the board of directors of Sonoco de México S.A. de C.V., member of the boards of directors and audit committees of Grupo Financiero Banamex, S.A. de C.V., Grupo Herdez, S.A. de C.V., General de Seguros, S.A.B., Kansas City Southern Group and Grupo Aeroportuario del Pacífico, S.A. de C.V., and member of the board of directors of Laboratorios Sanfer-Hormona. Mr. Rincón Gallardo is a member of the Instituto Mexicano de Contadores Públicos, A.C., he was managing partner of KPMG Mexico, and was member of the board of directors of KPMG United States and KPMG International.
José Antonio Fernández Carbajal	Has been a member of our board of directors since 2009. He is chairman of the board of directors of Fomento Económico Mexicano S.A.B. de C.V. ("FEMSA") since 2001 and its chief executive officer since 1995, chairman of the board of directors of Coca-Cola Femsa, S.A.B. de C.V., and vice president of the board of directors of ITESM. He is also a member of the board of directors of Grupo Financiero BBVA Bancomer, S.A. de C.V., BBVA Bancomer, S.A., Industrias Peñoles, S.A.B. de C.V., Grupo Industrial Bimbo, S.A.B. de C.V., Grupo Televisa, S.A.B. de C.V., Grupo Xignux S.A. de C.V., and Controladora Vuela Compañía de Aviación, S.A. de C.V. Mr. Fernández is also president of Fundación FEMSA, and president of the Advisory Council of the Mexican Institute of the Woodrow Wilson Center, Mexico Institute Co., since 2003.
Rafael Rangel Sostmann	Has been a member of our board of directors since 2009. Mr. Rangel Sostmann has been president of ITESM since 1985. He is also a member of the board of Fundación Santos y de la Garza Evia, I.B.P., which owns Hospital San José de Monterrey.

Board Practices

In compliance with the new Mexican securities markets law (*Ley del Mercado de Valores*), which was enacted on December 28, 2005 and became effective on June 28, 2006, our shareholders approved, at a general extraordinary meeting of shareholders held on April 27, 2006, a proposal to amend various articles of our by-laws, or *estatutos sociales*, in order to improve our standards of corporate governance and transparency, among other matters. The amendments include outlining the fiduciary duties of the members of our board of directors, who are now required:

- to perform their duties in a value-creating manner for the benefit of CEMEX without favoring a specific shareholder or group of shareholders;

- to act diligently and in good faith by adopting informed decisions; and
- to comply with their duty of care and loyalty, abstaining from engaging in illicit acts or activities.

The new law also eliminated the position of statutory examiner, whose duties of surveillance are now the responsibility of the board of directors, fulfilled through the new corporate practices and audit committee, as well as through the external auditor who audits the entity's financial statements, each within its professional role. With its new surveillance duties, our board of directors is no longer in charge of managing CEMEX; instead, this is the responsibility of our chief executive officer.

Pursuant to the new law and our by-laws, at least 25% of our directors must qualify as independent directors.

We have not entered into any service contracts with our directors that provide for benefits upon termination of employment.

The Audit Committee, the Corporate Practices Committee and the Finance Committee

The new Mexican securities market law required us to create a corporate practices committee comprised entirely of independent directors, in addition to our then existing audit committee. In compliance with this new requirement, in 2006 we increased the responsibilities of our audit committee and changed its name to "corporate practices and audit committee." To further enhance the effectiveness of our corporate governance, at our annual shareholders meeting of April 23, 2009, our shareholders approved the division of this committee into two distinct committees with different members and responsibilities, the audit committee and the corporate practices committee". In addition, at a meeting held on May 28, 2009, our board of directors approved the creation of the finance committee.

Our audit committee is responsible for:

- evaluating our internal controls and procedures, and identifying deficiencies;
- following up with corrective and preventive measures in response to any non-compliance with our operation and accounting guidelines and policies;
- evaluating the performance of our external auditors;
- describing and valuing non-audit services performed by our external auditor;
- reviewing our financial statements;
- assessing the effects of any modifications to the accounting policies approved during any fiscal year; and
- overseeing measures adopted as a result of any observations made by our shareholders, directors, executive officers, employees or any third parties with respect to accounting, internal controls and internal and external audit, as well as any complaints regarding management irregularities, including anonymous and confidential methods for addressing concerns raised by employees.

Our corporate practices committee is responsible for:

- evaluating the hiring, firing and compensation of our chief executive officer;
- reviewing the hiring and compensation policies for our executive officers;

- reviewing related party transactions;
- reviewing policies regarding use and corporate assets;
- reviewing unusual or material transactions; and
- evaluating waivers granted to our directors or executive officers regarding seizure of corporate opportunities.

Our finance committee is responsible for:

- evaluating the company's financial plans;
- reviewing the company's financial strategy and its implementation; and
- analyzing risks in connection with the company's financial structure, interst rate and currency volatility, and refinancing.

Under our bylaws and Mexican securities laws, all members of the corporate practices committee and the audit committee, including their presidents, are required to be independent directors.

Set forth below are the names of the members of our current audit committee, corporate practices committee and finance committee. The terms of the members of both committees are indefinite, and members may only be removed by a resolution of the board of directors. José Manuel Rincón Gallardo qualifies as an "audit committee financial expert" for purposes of the Saranes Oxley Act of 2002. See "Item 16A — Audit Committee Financial Expert."

Audit Committee:

Roberto Zambrano Villarreal President	See "—Board of Directors."
José Manuel Rincón Gallardo	See "—Board of Directors."
Alfonso Romo Garza	See "—Board of Directors."
Mauricio Zambrano Villarreal	See "—Board of Directors."

Corporate Practices Committee:

Dionisio Garza Medina President	See "—Board of Directors."
Bernardo Quintana Isaac	See "—Board of Directors."
Jose Antonio Fernandez Carbajal	See "—Board of Directors."
Rafael Rangel Sostmann	See "—Board of Directors."

Finance Committee:

Rogelio Zambrano Lozano President	See "—Board of Directors."
Rodolfo García Muriel	See "—Board of Directors."
Alfonso Romo Garza	See "—Board of Directors."
Tomás Milmo Santos	See "—Board of Directors."

Compensation of Our Directors and Members of Our Senior Management

For the year ended December 31, 2008, the aggregate amount of compensation we paid, or our subsidiaries paid, to all members of our board of directors, alternate members of our board of directors and senior managers, as a group, was approximately U.S.$18.3 million. Approximately U.S.$11.2 million of this amount was paid as base compensation, U.S.$6.3 million was paid to purchase 2,547,016 CPOs pursuant to the Restricted Stock Incentive Plan, or RSIP, described below under "— Restricted Stock Incentive Plan (RSIP)," and approximately U.S.$0.8 million as executive performance bonuses.

Several key executives also participate in a bonus plan that distributes a bonus pool based on our operating performance. This bonus is calculated and paid annually, a portion in cash and another portion in restricted CPOs under a RSIP, according to responsibility level.

Employee Stock Option Plan (ESOP)

In 1995, we adopted an employee stock option plan, or ESOP, under which we were authorized to grant members of our board of directors, members of our senior management and other eligible employees options to acquire our CPOs. Our obligations under the plan are covered by shares held in a trust created for such purpose (initially 216,300,000 shares). As of December 31, 2008, after giving effect to the exchange programs of November 2001 and February 2004 described below, and the exercise of options that has occurred through that date, options to acquire 4,191,934 CPOs remained outstanding under the original ESOP, with a weighted average exercise price of approximately Ps6.72 per CPO, and a weighted average remaining tenure of approximately 0.8 years.

In November 2001, starting with the 2001 voluntary exchange program described below, we incorporated new features to our ESOP, including an escalating strike price in dollars, increasing at an annual rate of 7%, adjusted downward by dividends paid. Options under this amended ESOP were hedged by non-dilutive equity forward contracts.

In February and December 2004, in the context of the voluntary exchange program and the voluntary early exercise program described below, we further amended our ESOP. The amendments provided, among other things, that the options would be automatically exercised at predetermined prices per CPO if, at any time during the life of the options, the CPO closing market price reached or exceeded those predetermined prices. As of December 31, 2008, all predetermined prices had been reached and, therefore, all options under the amended ESOP with predetermined exercise prices had been automatically exercised. Under the terms of the amended ESOP, all gains realized through exercise of the options were invested in restricted CPOs. The restricted CPOs received upon exercise of the options are held in a trust on behalf of each employee. The restrictions gradually lapse, at which time the CPOs become freely transferable and the employee may withdraw them from the trust.

CEMEX, Inc. ESOP

As a result of the acquisition of CEMEX, Inc. (formerly Southdown, Inc.) in November 2000, we established a stock option program for CEMEX, Inc.'s executives for the purchase of our ADSs. The options granted under the program have a fixed exercise price in Dollars equivalent to the average market price of one ADS during a six month period before the grant date and have a 10-year term. Twenty-five percent of the options vested annually during the first four years after their grant date. The options are covered using shares currently owned by our subsidiaries, thus potentially increasing stockholders' equity and the number of shares outstanding. As of December 31, 2008, considering the options granted since 2001, and the exercise of options that has occurred through that date, options to acquire 1,491,998 ADSs remained outstanding under this program. These options have a weighted average exercise price of approximately U.S.$1.35 per CPO, or U.S.$13.50 per ADS as each ADS currently represents 10 CPOs.

The November 2001 Voluntary Exchange Program

In November 2001, we implemented a voluntary exchange program to offer participants in our ESOP new options in exchange for their existing options. The new options had an escalating strike price in Dollars and were hedged by our equity forward contracts, while the old options had a fixed strike price in Pesos. The executives who participated in this program exchanged their options to purchase CPOs at a weighted average strike price of Ps34.11 per CPO, for cash equivalent to the intrinsic value on the exchange date and new options to purchase CPOs with an escalating dollar strike price set at U.S.$4.93 per CPO as of December 31, 2001, growing by 7% per annum less dividends paid on the CPOs. Of the old options, 57,448,219 (approximately 90.1%) were exchanged for new options in the voluntary exchange program and 8,695,396 were not exchanged. In the context of the program, 81,630,766 new options were issued, in addition to 7,307,039 of the new options that were purchased by participants under a voluntary purchase option that was also part of the exchange. As of December 31, 2008, considering the options granted under the program, the exercise of options through that date, the result of the February 2004 exchange program described below and the 2004 voluntary early exercise program, 1,376,347 options to acquire 6,845,735 CPOs remained outstanding under this program, with a weighted average exercise price of approximately U.S.$1.43 per CPO. As of December 31, 2008, the outstanding options under this program had a remaining tenure of approximately 3.3 years.

The February 2004 Voluntary Exchange Program

In February 2004, we implemented a voluntary exchange program to offer ESOP participants, as well as holders of options granted under our existing voluntary employee stock option plan, or VESOP, new options in exchange for their existing options. Under the terms of the exchange offer, participating employees surrendered their options in exchange for new options with an initial strike price of U.S.$5.05 per CPO and a life of 8.4 years, representing respectively the weighted average strike price and maturity of existing options. The strike price of the new options increased annually at a 7% rate, less dividends paid on the CPOs. Holders of these options were entitled to receive an annual payment of U.S.$0.10 net of taxes per option outstanding as of the payment date until exercise or maturity of the options, which was scheduled to grow annually at a 10% rate.

The new options were exercisable at any time at the discretion of their holders, and would be automatically exercised if, at any time during the life of the options, the closing CPO market price reached U.S.$7.50. Any gain realized through the exercise of these options was required to be invested in restricted CPOs at a 20% discount to market. The restrictions would be removed gradually within a period of between two and four years, depending on the exercise date.

As a result of the voluntary exchange offer, 122,708,146 new options were issued in exchange for 114,121,358 existing options, which were subsequently cancelled. All options not exchanged in the offer maintained their existing terms and conditions.

On January 17, 2005, the closing CPO market price reached U.S.$7.50 and, as a result, all existing options under this program were automatically exercised. Holders of these options received the corresponding gain in restricted CPOs, as described above.

The 2004 Voluntary Early Exercise Program

In December 2004, we offered ESOP and VESOP participants new options, conditioned on the participants exercising and receiving the intrinsic value of their existing options. As a result of this program, 120,827,370 options from the February 2004 voluntary exchange program, 16,580,004 options from other ESOPs, and 399,848 options from VESOP programs were exercised, and we granted a total of 139,151,236 new options. The new options had an initial strike price of US$7.4661 per CPO, which was US$0.50 above the closing CPO market price on the date on which the old options were exercised, and which increased at a rate of 5.5% per annum. All gains from the exercise of these new options would be paid in restricted CPOs. The restrictions would be removed gradually within a period of between two and four years, depending on the exercise date.

The new options could be exercised at any time at the discretion of their holders. Of the 139,151,236 new options, 120,827,370 would be automatically exercised if the closing CPO market price reached U.S.$8.50, while the remaining 18,323,866 options did not have an automatic exercise threshold. Holders of these options were entitled to receive an annual payment of US$0.10 net of taxes per option outstanding as of the payment date until exercise or maturity of the options or until the closing CPO market price reached U.S.$8.50, which payment was scheduled to grow annually at a 10% rate.

On June 17, 2005, the closing CPO market price reached U.S.$8.50, and, as a result, all outstanding options subject to automatic exercise were automatically exercised and the annual payment to which holders of the remaining options were entitled was terminated. As of December 31, 2008, options to acquire 67,769,976 CPOs remained outstanding under this program, with an exercise price of approximately U.S.$2.00 per CPO and a remaining tenure of approximately six years.

For accounting purposes under MFRS and U.S. GAAP, as of December 31, 2008, we accounted for the options granted under the February 2004 voluntary exchange program by means of the fair value method through earnings. See notes 2U and 16 to our consolidated financial statements included elsewhere in this annual report.

Consolidated ESOP Information

Stock options activity during 2007 and 2008, the balance of options outstanding as of December 31, 2007 and 2008 and other general information regarding our stock option programs, is presented in note 16 to our consolidated financial statements included elsewhere in this annual report.

As of December 31, 2008, the following ESOP options to purchase our securities were outstanding:

Title of security underlying options	Number of CPOs or CPO equivalents underlying options	Expiration Date	Range of exercise prices per CPO or CPO equivalent
CPOs (Pesos)	4,191,934	2009-2011	Ps4.91-8.39
CPOs (Dollars) (may be instantly cash-settled)	6,845,735	2011-2013	U.S.$1.2-1.6
CPOs (Dollars) (receive restricted CPOs)	67,769,976	2012	U.S.$2
CEMEX, Inc. ESOP	14,919,980	2011-2015	U.S.$1-1.19

As of December 31, 2008, our senior management and directors held the following ESOP options to acquire our securities:

Title of security underlying options	Number of CPOs or CPO equivalents underlying options	Expiration Date	Range of exercise prices per CPO or CPO equivalent
CPOs (Dollars) (receive restricted CPOs)	2,999,561	2012	U.S.$2

As of December 31, 2008, our employees and former employees, other than senior management and directors, held the following ESOP options to acquire our securities:

Title of security underlying options	Number of CPOs or CPO equivalents underlying options	Expiration Date	Range of exercise prices per CPO or CPO equivalent
CPOs (Pesos)	4,191,934	2009-2011	Ps4.91-8.39
CPOs (Dollars) (may be instantly cash-settled)	6,845,735	2011-2013	U.S.$1.2-1.6
CPOs (Dollars) (receive restricted CPOs)	64,770,415	2012	U.S.$2
CEMEX, Inc. ESOP	14,919,980	2011-2015	U.S.$1-1.9

Voluntary Employee Stock Option Plan (VESOP)

During 1998, 1999, 2002 and 2003, we established voluntary employee stock option plans, or VESOPs, pursuant to which managers and senior executives elected to purchase options to CPOs. As of December 31, 2008, there were 5,000 options to acquire 25,893 CPOs, with an exercise price of U.S.$1.65 per CPO and a remaining life of approximately two years, outstanding from options sold to executives under a VESOP in April 2002.

As of December 31, 2008, no member of our senior management or board of directors held any VESOP options to acquire our securities.

Restricted Stock Incentive Plan (RSIP)

Since January 2005, we have been changing our long-term variable compensation programs from stock option grants to restricted stock awards under a Restricted Stock Incentive Plan, or RSIP. Under the terms of the RSIP, eligible employees are allocated a specific number of restricted CPOs as variable compensation to be vested over a four-year period. Before 2006, we distributed annually to a trust an amount in cash sufficient to purchase in the market, on behalf of each eligible employee, 25% of such employee's allocated number of CPOs. During 2006, in order to reduce the volatility of our RSIP, we began to distribute annually an amount in cash sufficient to purchase 100% of the allocated CPOs for each eligible employee. Although the vesting period of the restricted CPOs and other features of the RSIP did not change as a result of this new policy, the nominal amount of annual compensation received by eligible employees increased in proportion to the additional number of CPOs received as a result of the new policy. The CPOs purchased by the trust will be held in a restricted account by the trust on behalf of each employee for one year. At the end of the one-year period the restrictions will lapse, at which time the CPOs will become freely transferable and the employee may withdraw them from the trust.

During 2008, 17,641,231 CEMEX CPOs were purchased by the trust on behalf of eligible employees pursuant to the Restricted Stock Incentive Plan, of which 2,547,016 million were purchased for members of our senior management and board of directors.

Employees

As of December 31, 2008, we had approximately 56,791 employees worldwide, which represented a decrease of approximately 15% from year-end 2007. We reduced our headcount by 11% as a result of the implementation of our global cost-reduction program, part of our ongoing efforts to align our company with new market conditions and increase our efficiency and lower costs. A further 4% reduction resulted from nationalization of our Venezuelan business.

The following table sets forth the number of our full-time employees and a breakdown of their geographic location at the end of each of the last three fiscal years:

	2006	2007	2008
North America			
Mexico	15,130	16,571	15,205
United States	9,109	16,389	12,487
Europe			
Spain	3,102	3,151	2,892
United Kingdom	6,376	5,549	4,205
Rest of Europe	11,034	11,226	10,706
South America, Central America and the Caribbean	6,290	7,158	4,530
Africa and the Middle East	2,416	2,523	2,633
Asia	1,448	1,324	1,277
Australia		2,721	2,856

Employees in Mexico have collective bargaining agreements on a plant-by-plant basis, which are renewable on an annual basis with respect to salaries and on a biannual basis with respect to benefits. During 2008, more than 130 contracts with different labor unions were renewed.

Approximately 31% of our employees in the United States are represented by unions, with the largest number being members of the International Brotherhood of Teamsters, the Laborers' Union of North America, the International Brotherhood of Boilermakers, and the International Union of Operating Engineers. Collective bargaining agreements are in effect at all our U.S. plants and have various expiration dates from 2009 through 2013.

Our Spanish union employees have collective bargaining agreements that are renewable every two to three years on a company-by-company basis. Employees in the ready-mix concrete, mortar, aggregates and transport sectors have collective bargaining agreements by sector. Executive compensation in Spain is subject to our institutional policies and influenced by the local labor market.

In the United Kingdom, our cement, roof tiles and logistics operations have collective bargaining agreements with the Unite union (following the merger of the Transport & General Workers union and Amicus union). The rest of our operations in the United Kingdom are not part of collective bargaining agreements; however, there are local agreements for consultation and employee representation with Unite union, and the GMB union (Britain's general labor union).

In Germany, most of our operations have collective bargaining agreements with the Industriegewerkschaft – BAUEN AGRAR UMWELT – IG B.A.U. union. In addition to the collective bargaining agreements, there are internal company agreements, negotiated between the workers council and the company itself.

In France, less than 20% of our employees are members of one of the five main unions. Each union is represented in the company mainly in Paris and in Southern France. All agreements are negotiated with unions and non-union representatives elected in the local workers council (Comité d'Entreprise).

In Colombia, a single union represents the union employees of the Bucaramanga and Cúcuta cement plants. There are also collective agreements with non-union workers at the Caracolito/Ibagué cement plant, Santa Rosa cement plant and all ready-mix concrete plants in Colombia.

In Australia, around 60% of our 2,800 employees are covered by 62 industrial agreements. Approximately 1,000 employees are covered by agreements with the CSR and CEMEX Salaried Staff Association, approximately 800 employees are covered by other unions (Australian Workers Union and Transport Workers Union) or employee collective (non-union) agreements. 24 agreements are expected to be renewed in 2009. Confidentiality of union membership under Australian law prevents estimates of the number of employees who are members of a union (either with external unions or with the Staff Association).

Overall, we consider our relationships with labor unions representing our employees to be satisfactory.

Share Ownership

As of May 22, 2009, our senior management and directors and their immediate families owned, collectively, approximately 3.72% of our outstanding shares, including shares underlying stock options and restricted CPOs under our ESOPs. This percentage does not include shares held by the extended families of members of our senior management and directors, since, to the best of our knowledge, no voting arrangements or other agreements exist with respect to those shares. As of May 22, 2009, Lorenzo Milmo Zambrano, a member of our board of directors, beneficially owned approximately 1.07% of our outstanding capital stock. No other individual director or member of our senior management beneficially owned one percent or more of any class of our outstanding capital stock.

Item 7 - Major Shareholders and Related Party Transactions

Major Shareholders

Based upon information contained in a statement on Schedule 13G filed with the Securities and Exchange Commission on February 6, 2009, as of December 31, 2008, Southeastern Asset Management, Inc., an investment adviser registered under the U.S. Investment Advisers Act of 1940, as amended, beneficially owned 97,198,558 ADSs and 19,605,532 CPOs, representing a total 991,591,112 CPOs or approximately 11.9% of our then outstanding capital stock. Southeastern Asset Management, Inc. does not have voting rights different from our other non-Mexican holders of CPOs.

Based upon information contained in a statement on Schedule 13G filed with the Securities and Exchange Commission on February 11, 2009, as of December 31, 2008, Dodge & Cox, an investment adviser registered under the U.S. Investment Advisers Act of 1940, as amended, beneficially owned 54,788,431 ADSs and 0 CPOs, representing a total 547,884,310 CPOs or approximately 6.6% of our then outstanding capital stock. Dodge & Cox does not have voting rights different from our other non-Mexican holders of CPOs.

Other than Southeastern Asset Management, Inc. and Dodge & Cox, the CPO trust and the shares and CPOs owned by our subsidiaries, we are not aware of any person that is the beneficial owner of five percent or more of any class of our voting securities.

As of March 31, 2009, our outstanding capital stock consisted of 16,726,459,086 Series A shares and 8,363,229,543 Series B shares, in each case including shares held by our subsidiaries.

As of March 31, 2009, a total of 16,251,501,966 Series A shares and 8,125,750,983 Series B shares were held by the CPO trust. Each CPO represents two Series A shares and one Series B share. A portion of the CPOs is represented by ADSs. Under the terms of the CPO trust agreement, non-Mexican holders of CPOs and ADSs have no voting rights with respect to the A shares underlying those CPOs and ADSs. All ADSs are deemed to be held by non-Mexican nationals. At every shareholders' meeting, the A shares held in the CPO trust are voted in accordance with the vote cast by holders of the majority of A shares held by Mexican nationals and B shares voted at that meeting of shareholders.

As of March 31, 2009, through our subsidiaries, we owned approximately 589 million CPOs, representing approximately 7.3% of our outstanding CPOs and 7.0% of our outstanding voting stock. These CPOs are voted at the direction of our management. From time to time, our subsidiaries are active participants in the trading market for our capital stock; as a result, the levels of our CPO and share ownership by those subsidiaries are likely to fluctuate. Our voting rights over those CPOs are the same as those of any other CPO holder. As of the same date, we did not hold any CPO in derivative instruments hedging expected cash flows of stock options exercises.

Our by-laws, or *estatutos sociales*, provide that our board of directors must authorize in advance any transfer of voting shares of our capital stock that would result in any person's, or group's acting in concert, becoming a holder of 2% or more of our voting shares.

Mexican securities regulations provide that our majority-owned subsidiaries may neither directly or indirectly invest in our CPOs nor other securities representing our capital stock. The Mexican securities authority could require any disposition of the CPOs or of other securities representing our capital stock so owned and/or impose fines on us if it were to determine that the ownership of our CPOs or of other securities representing our capital stock by our subsidiaries, in most cases, negatively affects the interests of our shareholders. Notwithstanding the foregoing, the exercise of all rights pertaining to our CPOs or to other securities representing our capital stock in accordance with the instructions of our subsidiaries does not violate any provisions of our bylaws or the bylaws of our subsidiaries. The holders of these CPOs or of other securities representing our capital stock are entitled to exercise the same rights relating to their CPOs or their other securities representing our capital stock, including all voting rights, as any other holder of the same series.

As of March 23, 2009, we had 148,871 ADS holders of record in the United States, holding approximately 52% of our outstanding CPOs.

On April 27, 2006, our shareholders approved a stock split, which occurred on July 17, 2006. In connection with the stock split, each of our existing series A shares was surrendered in exchange for two new series A shares, and each of our existing series B shares was surrendered in exchange for two new series B shares. Concurrent with this stock split, we authorized the amendment of the CPO trust agreement pursuant to which our CPOs are issued to provide for the substitution of two new CPOs for each of our existing CPOs, with each new CPO representing two new series A shares and one new series B share. In connection with the stock split and at our request, Citibank, N.A., as depositary for the ADSs, distributed one additional ADS for each ADS outstanding as of the record date for the stock split. The ratio of CPOs to ADSs did not change as a result of the stock split; each ADS

represents ten new CPOs following the stock split and the CPO trust amendment. The proportional equity interest participation of existing shareholders did not change as a result of the stock split. The financial data set forth in this annual report have been adjusted to give effect to the stock split.

Related Party Transactions

Mr. Bernardo Quintana Isaac, a member of our board of directors, is chief executive officer and chairman of the board of directors of Grupo ICA, S.A. de C.V., or Grupo ICA, a large Mexican construction company. In the ordinary course of business, we extend financing to Grupo ICA for varying amounts at market rates, as we do for our other customers.

Mr. Jose Antonio Fernandez Carbajal, a member of our board of directors, is president and chief executive officer of FEMSA, a large multinational beverage company. In the ordinary course of business, we pay and receive various amounts to and from Femsa for products and services for varying amounts on market terms. Mr. Fernandez Carbajal is also vice-chairman of the board of Consejo de Enseñanza e Investigación Superior, A.C. (the managing entitiy of ITESM,) of which Mr. Lorenzo H. Zambrano, our chief executive officer and chairman of our board of directors, is chairman of the board, and which in 2008 received contributions by CEMEX for amounts that were not material.

Mr. Rafael Rangel Sostman, a member of our board of directors, is president of ITESM.

During 2008 and as of May 15, 2009, we did not have any outstanding loans to any of our directors or members of senior management.

Item 8 - Financial Information

Consolidated Financial Statements and Other Financial Information

See “Item 18 — Financial Statements” and “Index to Consolidated Financial Statements.”

Legal Proceedings

See “Item 4 — Information on the Company — Regulatory Matters and Legal Proceedings.”

Dividends

A declaration of any dividend is made by our shareholders at a general ordinary meeting. Any dividend declaration is usually based upon the recommendation of our board of directors. However, the shareholders are not obligated to approve the board’s recommendation. We may only pay dividends from retained earnings included in financial statements that have been approved by our shareholders and after all losses have been paid for, a legal reserve equal to 5% of our paid-in capital has been created and our shareholders have approved the relevant dividend payment. According to 1999 Mexican tax reforms, all shareholders, excluding Mexican corporations, that receive a dividend in cash or in any other form are subject to a withholding tax. See “Item 10 — Additional Information — Taxation — Mexican Tax Considerations.” Since we conduct our operations through our subsidiaries, we have no significant assets of our own except for our investments in those subsidiaries. Consequently, our ability to pay dividends to our shareholders is dependent upon our ability to receive funds from our subsidiaries in the form of dividends, management fees, or otherwise. Some of our credit agreements and debt instruments and some of those of our subsidiaries contain provisions restricting our ability, and that of our subsidiaries, as the case may be, to pay dividends if financial covenants are not maintained. As of December 31, 2008, we and our subsidiaries were in compliance with, or had obtained waivers in connection with, those covenants. The global refinancing plan we are currently negotiating will likely restrict our ability to declare cash dividends or distributions or similar payments to the shareholders of CEMEX, S.A.B. de C.V. See “Item 3 — Key Information — Risk Factors — Our ability to repay debt and pay dividends depends on our subsidiaries’ ability to transfer income and dividends to us and contractual restrictions binding on us.”

The recommendation of our board of directors as to whether to pay and the amount of any annual dividends has been and will continue to be based upon, among other things, earnings, cash flow, capital requirements and our financial condition and other relevant factors.

Owners of ADSs on the applicable record date will be entitled to receive any dividends payable in respect of the A shares and the B shares underlying the CPOs represented by those ADSs; however, as permitted by the deposit agreement pursuant to which our ADSs are issued, we may instruct the ADS depositary not to extend the option to elect to receive cash in lieu of the stock dividend to the holders of ADSs, as we did in connection with the dividend for the 2006 and 2007 fiscal years, as described below. The ADS depositary will fix a record date for the holders of ADSs in respect of each dividend distribution. Unless otherwise stated, the ADS depositary has agreed to convert cash dividends received by it in respect of the A shares and the B shares underlying the CPOs represented by ADSs from Pesos into Dollars and, after deduction or after payment of expenses of the ADS depositary, to pay those dividends to holders of ADSs in Dollars. We cannot assure holders of our ADSs that the ADS depositary will be able to convert dividends received in Pesos into Dollars.

The following table sets forth the amounts of annual cash dividends paid in Pesos, on a per share basis, and a convenience translation of those amounts into Dollars based on the CEMEX accounting rate as of December 31, 2008:

	Dividends Per Share	
	Constant Pesos	Dollars
2004	0.23	0.02
2005	0.25	0.02
2006	0.27	0.02
2007	0.28	0.03

Dividends declared at each year's annual shareholders' meeting are in respect of dividends for the preceding year. In recent years, our board of directors has proposed, and our shareholders have approved, dividend proposals, whereby our shareholders have had a choice between stock dividends or cash dividends declared in respect of the prior year's results, with the stock issuable to shareholders who elect the stock dividend over the cash dividend being issued at a 20% discount from then current market prices. The dividends declared per share or per CPO in recent years, expressed in constant Pesos as of December 31, 2007, were as follows: 2003, Ps0.72 per CPO (or Ps0.24 per share); 2004, Ps0.69 per CPO (or Ps0.23 per share); 2005, Ps0.75 per CPO (or Ps0.25 per share); 2006, Ps0.81 per CPO (or Ps0.27 per share); and 2007, Ps0.84 per CPO (or Ps0.28 per share). As a result of dividend elections made by shareholders, in 2003, Ps80 million in cash was paid and approximately 396 million additional CPOs were issued in respect of dividends declared for the 2002 fiscal year; in 2004, Ps191 million in cash was paid and approximately 300 million additional CPOs were issued in respect of dividends declared for the 2003 fiscal year; in 2005, Ps449 million in cash was paid and approximately 266 million additional CPOs were issued in respect of dividends declared for the 2004 fiscal year; in 2006, Ps161 million in cash was paid and approximately 212 million additional CPOs were issued in respect of dividends declared for the 2005 fiscal year; and in 2007, Ps147 million in cash was paid and approximately 189 million additional CPOs were issued in respect of dividends declared for the 2006 fiscal year.

At our 2008 annual shareholders' meeting, which was held on April 24, 2008, our shareholders approved a dividend for the 2007 fiscal year of the Peso equivalent of U.S.$0.0835 per CPO (U.S.$0.02783 per share) or Ps0.8678 (Ps0.2893 per share), based on the Peso/Dollar exchange rate in effect for May 29, 2008 of Ps10.3925 to U.S.$1.00, as published by the Mexican Central Bank. Holders of our series A shares, series B shares and CPOs are entitled to receive the dividend in either stock or cash consistent with our past practices; however, as we did in respect of the dividend for the 2006 fiscal year, under the terms of the deposit agreement pursuant to which our ADSs are issued, we instructed the depositary for the ADSs not to extend the option to elect to receive cash in lieu of the stock dividend to the holders of ADSs. As a result of dividend elections made by shareholders, in June 2008, approximately Ps214 million in cash was paid and approximately 284 million additional CPOs were issued in respect of dividends declared for the 2007 fiscal year.

We did not declare a dividend for fiscal year 2008. At our 2009 annual shareholders' meeting, held on April 23, 2009, our shareholders approved a recapitalization of retained earnings. New CPOs issued pursuant to the recapitalization will be allocated to shareholders on a pro-rata basis. As of June 3, 2009, a total of 334,414,851 CPOs, representing 99.97% of all CPOs authorized for issuance at the shareholders' meeting, had been issued. CPO holders will receive one new CPO for each 25 CPOs held and ADS holders will receive one new ADS for each 25 ADSs held. There will be no cash distribution and no entitlement to fractional shares.

Significant Changes

Except as described herein, no significant change has occurred since the date of our consolidated financial statements included elsewhere in this annual report.

Item 9 - Offer and Listing

Market Price Information

Our CPOs are listed on the Mexican Stock Exchange and trade under the symbol "CEMEX.CPO." Our ADSs, each of which currently represents ten CPOs, are listed on the New York Stock Exchange and trade under the symbol "CX." The following table sets forth, for the periods indicated, the reported highest and lowest market quotations in nominal Pesos for CPOs on the Mexican Stock Exchange and the high and low sales prices in Dollars for ADSs on the NYSE. The information below gives effect to the two-for-one stock split in our CPOs and ADSs approved by our shareholders on April 27, 2006, which occurred on July 17, 2006, and prior stock splits.

Calendar Period	CPOs(1)		ADSs	
	High	Low	High	Low
Yearly				
2004	20.50	14.57	18.28	12.99
2005	33.25	18.88	30.99	17.06
2006	39.35	27.25	36.04	23.78
2007	44.50	27.23	41.34	24.81
2008	33.80	5.55	32.61	4.01
Quarterly				
2008				
First quarter	31.36	23.00	29.44	20.92
Second quarter	33.80	24.05	32.61	23.36
Third quarter	25.29	17.62	25.24	15.90
Fourth quarter	18.87	5.55	17.09	4.01
2009				
First quarter	14.36	6.16	10.74	3.94
Monthly				
2008-2009				
November	10.80	5.55	8.68	4.01
December	15.20	8.17	11.35	6.00
January	14.36	10.50	10.74	7.33
February	13.11	8.00	9.24	5.20
March	9.50	6.16	6.60	3.94
April	11.23	8.51	8.63	6.17
May	14.10	10.66	10.79	7.39

Source: Based on data of the Mexican Stock Exchange and the NYSE.

(1) As of December 31, 2008, approximately 97.2% of our outstanding share capital was represented by CPOs.

On June 26, 2009, the last reported closing price for CPOs on the Mexican Stock Exchange was Ps12.62 per CPO, and the last reported closing price for ADSs on the NYSE was U.S.$9.51 per ADS.

Item 10 - Additional Information

Articles of Association and By-laws

General

Pursuant to the requirements of Mexican corporation law, our articles of association and by-laws, or *estatutos sociales*, have been registered with the Mercantile Section of the Public Register of Property and Commerce in Monterrey, Mexico, under entry number 21, since June 11, 1920.

We are a holding company engaged, through our operating subsidiaries, primarily in the production, distribution, marketing and sale of cement, ready-mix concrete and clinker. Our objectives and purposes can be found in article 2 of our by-laws. We are a global cement manufacturer, with our current operations in North, Central and South America, Europe, the Caribbean, Asia, Australia and Africa. We plan to continue focusing on the production and sale of cement and ready-mix concrete, as we believe that this strategic focus has enabled us to grow our existing businesses and to expand our operations internationally.

We have two series of common stock, the series A common stock, with no par value, or A shares, which can only be owned by Mexican nationals, and the series B common stock, with no par value, or B shares, which can be owned by both Mexican and non-Mexican nationals. Our by-laws state that the A shares may not be held by non-Mexican persons, groups, units or associations that are foreign or have participation by foreign governments or their agencies. Our by-laws also state that the A shares shall at all times account for a minimum of 64% of our total outstanding voting stock. Other than as described herein, holders of the A shares and the B shares have the same rights and obligations.

In 1994, we changed from a fixed capital corporation to a variable capital corporation in accordance with Mexican corporation law and effected a three-for-one split of all our outstanding capital stock. As a result, we changed our corporate name from CEMEX, S.A. to CEMEX, S.A. de C.V., established a fixed capital account and a variable capital account and issued one share of variable capital stock of the same series for each eight shares of fixed capital stock held by any shareholder, after giving effect to the stock split. At our 2005 annual shareholders' meeting held on April 27, 2006, pursuant to requirements of the new Mexican securities markets law, our shareholders authorized the change of CEMEX's legal and commercial name to CEMEX, *Sociedad Anónima Bursátil de Capital Variable*, or CEMEX, S.A.B. de C.V., effective as of July 3, 2006, indicating that we are a publicly traded stock corporation.

Each of our fixed and variable capital accounts is comprised of A shares and B shares. Under the new Mexican securities law and our by-laws, holders of shares representing variable capital are not entitled to have those shares redeemed.

Shareholder authorization is required to increase or decrease either the fixed capital account or the variable capital account. Shareholder authorization to increase or decrease the fixed capital account must be obtained at an extraordinary meeting of shareholders. Shareholder authorization to increase or decrease the variable capital account must be obtained at an ordinary general meeting of shareholders.

On September 15, 1999, our shareholders approved a stock split, and for every one of our shares of any series we issued two series A shares and one series B share. Concurrently with this stock split, we also consummated an exchange offer to exchange new CPOs and new ADSs representing the new CPOs for our then existing A shares, B shares and ADSs, and converted our then existing CPOs into the new CPOs.

At a general extraordinary meeting of shareholders held on April 28, 2005, our shareholders approved a two-for-one stock split, which became effective on July 1, 2005. In connection with this stock split, each of our existing series A shares was surrendered in exchange for two new series A shares, and each of our existing series B

shares was surrendered in exchange for two new series B shares. Concurrent with this stock split, we authorized the amendment of the CPO trust agreement pursuant to which our CPOs are issued to provide for the substitution of two new CPOs for each of our existing CPOs, with each new CPO representing two new series A shares and one new series B share. The number of our existing ADSs did not change as a result of the stock split. Instead, the ratio of CPOs to ADSs was modified so that each existing ADS represented ten new CPOs following the stock split and the CPO trust amendment.

At the 2005 annual shareholders' meeting held on April 27, 2006, our shareholders approved a new stock split, which became effective on July 17, 2006. In connection with this new two-for-one stock split, each of our existing series A shares was surrendered in exchange for two new series A shares, and each of our existing series B shares was surrendered in exchange for two new series B shares. Concurrent with this stock split, we authorized the amendment of the CPO trust agreement pursuant to which our CPOs are issued to provide for the substitution of two new CPOs for each of our existing CPOs, with each new CPO representing two new series A shares and one new series B share. In connection with the stock split and at our request, Citibank, N.A., as depositary for the ADSs, distributed one additional ADS for each ADS outstanding as of the record date for the stock split. The ratio of CPOs to ADSs did not change as a result of the stock split; each ADS continued to represent ten CPOs following the stock split and the CPO trust amendment. The proportional equity interest participation of existing shareholders did not change as a result of this stock split.

As of December 31, 2008, our capital stock consisted of 26,373,758,769 issued shares. As of December 31, 2008, series A shares represented 67% of our capital stock, or 17,582,505,846 shares, of which 16,726,263,082 shares were subscribed and paid, 432,036,438 shares were treasury shares and 424,206,326 shares were issued pursuant to our employee stock option plans and subscribed to by Banamex as trustee thereunder but had not yet been paid. These shares have been and will continue to be gradually paid upon exercise of the corresponding stock options. As of December 31, 2008, series B shares represented 33% of our capital stock, or 8,791,252,923 shares, of which 8,363,131,541 shares were subscribed and paid, 216,018,219 shares were treasury shares and 212,103,163 shares were issued pursuant to our employee stock option plans and subscribed to by Banamex as trustee thereunder but had not yet been paid. These shares have been and will continue to be gradually paid upon exercise of the corresponding stock options. Of the total of our A shares and B shares outstanding as of December 31, 2008, 13,068,000,000 shares corresponded to the fixed portion of our capital stock and 13,305,758,769 shares corresponded to the variable portion of our capital stock.

On June 1, 2001, the Mexican securities law (*Ley de Mercado de Valore*s) was amended to increase the protection granted to minority shareholders of Mexican listed companies and to commence bringing corporate governance procedures of Mexican listed companies in line with international standards.

On February 6, 2002, the Mexican securities authority (*Comisión Nacional Bancaria y de Valore*s) issued an official communication authorizing the amendment of our by-laws to incorporate additional provisions to comply with the new provisions of the Mexican securities law. Following approval from our shareholders at our 2002 annual shareholders' meeting, we amended and restated our by-laws to incorporate these additional provisions, which consist of, among other things, protective measures to prevent share acquisitions, hostile takeovers, and direct or indirect changes of control. As a result of the amendment and restatement of our by-laws, the expiration of our corporate term of existence was extended from 2019 to 2100.

On March 19, 2003, the Mexican securities authority issued new regulations designed to (i) further implement minority rights granted to shareholders by the Mexican securities law and (ii) simplify and comprise in a single document provisions relating to securities offerings and periodic reports by Mexican-listed companies.

On April 24, 2003, our shareholders approved changes to our by-laws, incorporating additional provisions and removing some restrictions. The changes that are still in force are as follows:

- The limitation on our variable capital was removed. Formerly, our variable capital was limited to ten times our minimum fixed capital.
- Increases and decreases in our variable capital now require the notarization of the minutes of the ordinary general shareholders' meeting that authorize such increase or decrease, as well as the filing of these minutes with the Mexican National Securities Registry (Registro Nacional de Valores), except when such increase or decrease results from (i) shareholders exercising their redemption rights or (ii) stock repurchases.

- The cancellation of registration of our shares in the Securities Section of the Mexican National Securities Registry now involves an amended procedure, which is described below under "Repurchase Obligation." In addition, any amendments to the article containing these provisions no longer require the consent of the Mexican securities authority and 95% approval by shareholders entitled to vote.

On December 30, 2005, a new Mexican securities law was published in an attempt to continue bringing corporate governance procedures of Mexican listed companies in line with international standards. This new law includes provisions increasing disclosure information requirements, improving minority shareholder rights, and strengthening corporate governance standards.

Under the new Mexican securities law, we were required to adopt specific amendments to our by-laws within 180 days of the effective date of the new law. Following approval from our shareholders at our 2005 annual shareholders' meeting held on April 27, 2006, we amended and restated our by-laws to incorporate these amendments. The amendments to our by-laws became effective on July 3, 2006. The most significant of these amendments were as follows:

- The change of our corporate name from CEMEX, S.A. de C.V. to CEMEX, S.A.B. de C.V., which means that we are now called a Publicly Held Company (*Sociedad Anónima Bursátil* or S.A.B.).
- The creation of a corporate practices committee, which is a new committee of our board of directors and which is comprised exclusively of independent directors.
- The elimination of the position of statutory examiner (*Comisario*) and the assumption of its responsibilities by the board of directors through the audit committee and the new corporate practices committee, as well as through the external auditor who audits our financial statements, each within its professional role.
- The express attribution of certain duties (such as the duty of loyalty and the duty of care) and liabilities on the members of the board of directors as well as on the relevant officers.
- The implementation of a mechanism for claims of a breach of a director's or officer's duties, to be brought by us or by holders of 5% or more of our shares.
- An increase in the responsibilities of the audit committee.
- The chief executive officer is now the person in charge of managing the company; previously, this was the duty of the board of directors. The board of directors now supervises the chief executive officer.
- Shareholders are given the right to enter into certain agreements with other shareholders.

Changes in Capital Stock and Preemptive Rights

Our by-laws allow for a decrease or increase in our capital stock if it is approved by our shareholders at a shareholders' meeting. Additional shares of our capital stock, having no voting rights or limited voting rights, are authorized by our by-laws and may be issued upon the approval of our shareholders at a shareholders' meeting, with the prior approval of the Mexican securities authority.

Our by-laws provide that shareholders have preemptive rights with respect to the class and in proportion to the number of shares of our capital stock that they hold, before any increase in the number of outstanding A shares, B shares, or any other existing series of shares, as the case may be. This preemptive right to subscribe is not applicable to increases of our capital through public offers or through the issuance of our own shares previously

acquired by us. Preemptive rights give shareholders the right, upon any issuance of shares by us, to purchase a sufficient number of shares to maintain their existing ownership percentages. Preemptive rights must be exercised within the period and under the conditions established for that purpose by the shareholders, and our by-laws and applicable law provide that this period must be 15 days following the publication of the notice of the capital increase in the *Periódico Oficial del Estado de Nuevo León*.

Pursuant to our by-laws, significant acquisitions of shares of our capital stock and changes of control of CEMEX require prior approval from our board of directors. Our board of directors must authorize in advance any transfer of voting shares of our capital stock that would result in any person or group becoming a holder of 2% of more of our shares. Our board of directors shall consider the following when determining whether to authorize such transfer of voting shares: a) the type of investors involved; b) whether the acquisition would result in the potential acquirer exercising a significant influence or being able to obtain control; c) whether all applicable rules and our by-laws have been observed by the potential acquirer; d) whether the potential acquirers are our competitors and there is a risk of affecting market competition, or the potential acquirers could have access to confidential and privileged information; e) the moral and economic solvency of the potential acquirers; f) the protection of minority rights and the rights of our employees; and g) whether an adequate base of investors would be maintained. If our board of directors denies the authorization, or the requirements established in our by-laws are not complied with, the persons involved in the transfer shall not be entitled to exercise the voting rights corresponding to the transferred shares, and such shares shall not be taken into account for the determination of the quorums of attendance and voting at shareholders' meetings, nor shall the transfers be recorded in the shareholder ledger and the registry done by Indeval, the Mexican securities depositary, shall not have any effect.

Any acquisition of shares of our capital stock representing 30% or more of our capital stock by a person or group of persons requires prior approval from our board of directors and, in the event approval is granted, the acquiror has an obligation to make a public offer to purchase all of the outstanding shares of our capital stock. In the event the requirements for significant acquisitions of shares of our capital stock are not met, the persons acquiring such shares will not be entitled to any corporate rights with respect to such shares, such shares will not be taken into account for purposes of determining a quorum for shareholders' meetings, we will not record such persons as holders of such shares in our shareholder ledger, and the registry done by the Indeval shall not have any effect.

Our by-laws require the stock certificates representing shares of our capital stock to make reference to the provisions in our by-laws relating to the prior approval of the board of directors for significant share transfers and the requirements for recording share transfers in our shareholder ledger. In addition, shareholders are responsible for informing us within five business days whenever their shareholdings exceed 5%, 10%, 15%, 20%, 25% and 30% of the outstanding shares of a particular class of our capital stock. We are required to maintain a shareholder ledger that records the names, nationalities and domiciles of all significant shareholders, and any shareholder that meets or exceeds these thresholds must be recorded in this ledger if such shareholder is to be recognized or represented at any shareholders' meeting. If a shareholder fails to inform us of its shareholdings reaching a threshold as described above, we will not record the transactions that cause such threshold to be met or exceeded in our shareholder ledger, and such transaction will have no legal effect and will not be binding on us.

Our by-laws also require that our shareholders comply with legal provisions regarding acquisitions of securities and certain shareholders' agreements that require disclosure to the public.

Repurchase Obligation

In accordance with Mexican securities regulations, our majority shareholders are obligated to make a public offer for the purchase of stock to the minority shareholders if the listing of our stock with the Mexican Stock Exchange is canceled, either by resolution of our shareholders or by an order of the Mexican securities authority. The price at which the stock must be purchased by the majority shareholders is the higher of:

- the weighted average price per share based on the weighted average trading price of our CPOs on the Mexican Stock Exchange during the latest period of 30 trading days preceding the date of the offer, for a period not to exceed six months; or

- the book value per share, as reflected in the last quarterly report filed with the Mexican securities authority and the Mexican Stock Exchange.

Our board of directors shall prepare and disclose to the public through the Mexican Stock Exchange, within ten business days after the day the public offer begins, and after consulting the corporate practices and audit committee, its opinion regarding the price of the offer and any conflicts of interests that each of its members may have regarding such offer. This opinion may be accompanied by an additional opinion issued by an independent expert that we may hire.

Following the expiration of this offer, if the majority shareholders do not acquire 100% of the paid-in capital, such shareholders must place in a trust set up for that purpose for a six-month period an amount equal to that required to repurchase the remaining shares held by investors who did not participate in the offer. The majority shareholders are not obligated to make the offer to purchase if shareholders representing 95% of our share capital waive that right, and the amount offered for the shares is less than 300,000 UDIs (*Unidades de Inversió*n), which are Mexican Peso-denominated investment units that reflect inflation variations. For purposes of these provisions, majority shareholders are shareholders who own a majority of our shares and have sufficient voting power to control decisions at general shareholders' meetings, or who may elect a majority of our board of directors.

Shareholders' Meetings and Voting Rights

Shareholders' meetings may be called by:

- our board of directors or the corporate practices and audit committee;
- shareholders representing at least 10% of the then outstanding shares of our capital stock, by requesting that the chairman of our board of directors or our corporate practices and audit committee call such a meeting;
- any shareholder (i) if no meeting has been held for two consecutive years or when the matters referred to in Article 181 of the General Law of Commercial Companies *(Ley General de Sociedades Mercantiles*) have not been dealt with, or (ii) when, for any reason, the required quorum for valid sessions of the corporate practices and audit committee was not reached and the board of directors failed to make the appropriate provisional appointments; or
- a Mexican court, in the event our board of directors or the corporate practices and audit committee do not comply with the valid shareholders' request indicated above.

Notice of shareholders' meetings must be published in the official gazette for the State of Nuevo León, Mexico or any major newspaper published and distributed in the City of Monterrey, Nuevo León, Mexico. The notice must be published at least 15 days prior to the date of any shareholders' meeting. Consistent with Mexican law, our by-laws further require that all information and documents relating to the shareholders' meeting be available to shareholders from the date the notice of the meeting is published.

General shareholders' meetings can be ordinary or extraordinary. At every general shareholders' meeting, each holder of A shares and B shares is entitled to one vote per share. Shareholders may vote by proxy duly appointed in writing. Under the CPO trust agreement, holders of CPOs who are not Mexican nationals cannot exercise voting rights corresponding to the A shares represented by their CPOs.

An annual general ordinary shareholders' meeting must be held during the first four months after the end of each of our fiscal years to consider the approval of a report of our board of directors regarding our performance and our financial statements for the preceding fiscal year and to determine the allocation of profits from the preceding year. In addition, our annual general ordinary shareholders' meeting must:

- review the annual reports of our corporate practices and audit committee, our chief executive officer, and our board of directors;

- elect, remove, or substitute the members of our board of directors;
- determine the level of independence of the members of our board of directors; and
- approve any transaction that represents 20% or more of the net worth of CEMEX.

A general extraordinary shareholders' meeting may be called at any time to deal with any of the matters specified by Article 182 of the General Law of Commercial Companies, which include, among other things:

- extending our corporate existence;
- our early dissolution;
- increasing or reducing our fixed capital stock;
- changing our corporate purpose;
- changing our country of incorporation;
- changing our form of organization;
- a proposed merger;
- issuing preferred shares;
- redeeming our own shares;
- any amendment to our by-laws; and
- any other matter for which a special quorum is required by law or by our by-laws.

In order to vote at a meeting of shareholders, shareholders must (i) appear on the list that Indeval and the Indeval participants holding shares on behalf of the shareholders prepare prior to the meeting or must deposit prior to that meeting, or (ii) prior to the meeting, deposit the certificates representing their shares at our offices or in a Mexican credit institution or brokerage house, or foreign bank approved by our board of directors to serve this function. The certificate of deposit with respect to the share certificates must be presented to our company secretary at least 48 hours before a meeting of shareholders. Our company secretary verifies that the person in whose favor any certificate of deposit was issued is named in our share registry and issues an admission pass authorizing that person's attendance at the meeting of shareholders.

Our by-laws provide that a shareholder may only be represented by proxy in a shareholders' meeting with a duly completed form provided by us authorizing the proxy's presence. In addition, our by-laws require that the secretary acting at the shareholders' meeting publicly affirm the compliance by all proxies with this requirement.

A shareholders' resolution is required to take action on any matter presented at a shareholders' meeting. At an ordinary meeting of shareholders, the affirmative vote of the holders of a majority of the shares present at the meeting is required to adopt a shareholders' resolution. At an extraordinary meeting of shareholders, the affirmative vote of at least 50% of the capital stock is required to adopt a shareholders' resolution, except that when amending Article 7 (with respect to measures limiting shareholding ownership), Article 10 (relating to the register of shares and significant participations) or Article 22 (specifying the impediments to being appointed a member of our board of directors) of our by-laws, the affirmative vote of at least 75% of the voting stock is needed. The quorum for a

first ordinary meeting of shareholders is 50% of our outstanding and fully paid shares, and for the second ordinary meeting is any number of our outstanding and fully paid shares. The quorum for the first extraordinary shareholders' meeting is 75% of our outstanding and fully paid shares, and for the second extraordinary meeting is 50% of our outstanding and fully paid shares.

Rights of Minority Shareholders

At our general annual shareholders' meeting, any shareholder or group of shareholders representing 10% or more of our voting stock has the right to appoint or remove one member of our board of directors, in addition to the directors appointed by the majority. Such appointment may only be revoked by other shareholders when the appointment of all other directors is also revoked.

Our by-laws provide that holders of at least 10% of our capital stock are entitled to demand the postponement of the voting on any resolution of which they deem they have not been sufficiently informed.

Under Mexican law, holders of at least 20% of our outstanding capital stock entitled to vote on a particular matter may seek to have any shareholder action with respect to that matter set aside, by filing a complaint with a court of law within 15 days after the close of the meeting at which that action was taken and showing that the challenged action violates Mexican law or our by-laws. Relief under these provisions is only available to holders who were entitled to vote on, or whose rights as shareholders were adversely affected by, the challenged shareholder action and whose shares were not represented when the action was taken or, if represented, voted against it.

Under Mexican law, an action for civil liabilities against directors may be initiated by a shareholders' resolution. In the event shareholders decide to bring an action of this type, the persons against whom that action is brought will immediately cease to be directors. Additionally, shareholders representing not less than 33% of the outstanding shares may directly exercise that action against the directors; provided that:

- those shareholders shall not have voted against exercising such action at the relevant shareholders' meeting; and
- the claim covers all of the damage alleged to have been caused to us and not merely the damage suffered by the plaintiffs.

Under our by-laws, shareholders representing 5% or more of our outstanding capital stock may initiate actions exclusively on behalf of CEMEX against members of our board of directors, our corporate practices and audit committee, our chief executive officer, or any relevant executives, for breach of their fiduciary duties or for committing illicit acts or activities. The only requirement is that the claim covers all of the damage alleged to have been caused to us and not merely the damage suffered by the plaintiffs.

Any recovery of damages with respect to these actions will be for our benefit and not that of the shareholders bringing the action.

Registration and Transfer

Our common stock is evidenced by share certificates in registered form with registered dividend coupons attached. Our shareholders may hold their shares in the form of physical certificates or through institutions that have accounts with Indeval. Accounts may be maintained at Indeval by brokers, banks and other entities approved by the Mexican securities authority. We maintain a stock registry, and, in accordance with Mexican law, only those holders listed in the stock registry and those holding certificates issued by Indeval and by Indeval participants indicating ownership are recognized as our shareholders.

Redemption

Our capital stock is subject to redemption upon approval of our shareholders at an extraordinary shareholders' meeting.

Share Repurchases

If approved by our shareholders at a general shareholders' meeting, we may purchase our outstanding shares for cancellation. We may also repurchase our equity securities on the Mexican Stock Exchange at the then-prevailing market prices in accordance with the Mexican securities law. If we intend to repurchase shares representing more than 1% of our outstanding shares at a single trading session, we must inform the public of such intention at least ten minutes before submitting our bid. If we intend to repurchase shares representing 3% or more of our outstanding shares during a period of twenty trading days, we are required to conduct a public tender offer for such shares. We must conduct share repurchases through the person or persons approved by our board of directors, through a single broker dealer during the relevant trading session, and without submitting bids during the first and the last 30 minutes of each trading session. We must inform the Mexican Stock Exchange of the results of any share repurchase no later than the business day following any such share repurchase.

Directors' and Shareholders' Conflict of Interest

Under Mexican law, any shareholder who has a conflict of interest with us with respect to any transaction is obligated to disclose such conflict and is prohibited from voting on that transaction. A shareholder who violates this prohibition may be liable for damages if the relevant transaction would not have been approved without that shareholder's vote.

Under Mexican law, any director who has a conflict of interest with us in any transaction must disclose that fact to the other directors and is prohibited from participating and being present during the deliberations and voting on that transaction. A director who violates this prohibition will be liable for damages. Additionally, our directors may not represent shareholders in our shareholders' meetings.

Withdrawal Rights

Whenever our shareholders approve a change of corporate purpose, change of nationality or transformation from one form of corporate organization to another, Mexican law provides that any shareholder entitled to vote on that change who has voted against it may withdraw from CEMEX and receive an amount calculated as specified by Mexican law attributable to such shareholder's shares, provided that such shareholder exercises that right within 15 days following the meeting at which the change was approved.

Dividends

At the annual ordinary general shareholders' meeting, our board of directors submits, for approval by our shareholders, our financial statements together with a report on them prepared by our board of directors and the statutory auditors. Our shareholders, once they have approved the financial statements, determine the allocation of our net income, after provision for income taxes, legal reserve and statutory employee profit sharing payments, for the preceding year. All shares of our capital stock outstanding at the time a dividend or other distribution is declared are entitled to share equally in that dividend or other distribution.

Liquidation Rights

In the event we are liquidated, the surplus assets remaining after payment of all our creditors will be divided among our shareholders in proportion to the respective shares held by them. The liquidator may, with the approval of our shareholders, distribute the surplus assets in kind among our shareholders, sell the surplus assets and divide the proceeds among our shareholders or put the surplus assets to any other uses agreed to by a majority of our shareholders voting at an extraordinary shareholders' meeting.

Differences Between Our Corporate Governance Practices and NYSE Standards for Domestic Companies

For a description of significant ways in which our corporate governance practices differ from those required of domestic companies under NYSE standards, please visit our website at www.cemex.com (under the heading "Investor Center/Corporate Governance").

Material Contracts

On March 17, 2006, we registered a Ps5 billion revolving promissory note program (*programa dual revolvente de certificados burstátiles*) with the Mexican securities authority. We have subsequently increased the authorized amount under this program, with the last increase authorizing up to Ps30 billion on September 19, 2007. For a description of recent activity under this program, see Item 5 — "Operating and Financial Review and Prospects — Liquidity and Capital Resources — Financing Activities."

On December 6, 2006, CEMEX España entered into a U.S.$9 billion committed facilities agreement, to partially fund the acquisition of Rinker. The first facility was a U.S.$3 billion 364-day multicurrency revolving loan denominated in Dollars or Euros with two optional 6-month extensions. The second facility is a multicurrency three-year U.S.$3 billion term loan denominated in Dollars or Euros. The third facility is a multicurrency five-year U.S.$3 billion term loan denominated in Dollars or Euros. On December 21, 2006, the facilities agreement was amended to include new lenders. The first facility was canceled on June 19, 2007, effective as of June 22, 2007. The facilities agreement was amended and restated on December 19, 2008, to incorporate, among other things, amendments to the leverage ratios and other technical amendments as well as to extend part of the maturities under the second facility; the facilities agreement was further amended and restated on January 27, 2009, to extend, re-tranche and re-denominate commitments under the second facility.

On December 18, 2006, CEMEX, through two special purpose vehicles, issued two tranches of fixed-to-floating rate callable perpetual debentures. C5 Capital (SPV) Limited issued U.S.$350 million in perpetual debentures under the first tranche, with the issuer having the option to redeem the debentures on December 31, 2011 and on each interest payment date thereafter. C10 Capital (SPV) Limited issued U.S.$900 million in perpetual debentures under the second tranche, with the issuer having the option to redeem the debentures on December 31, 2016 and on each interest payment date thereafter. Both tranches pay coupons denominated in Dollars at a fixed rate until the call date and at a floating rate thereafter. On February 12, 2007, CEMEX, through a special purpose vehicle, issued a third tranche of fixed-to-floating rate callable perpetual debentures. C8 Capital (SPV) Limited issued U.S.$750 million in perpetual debentures under this third tranche, with the issuer having the option to redeem the debentures on December 31, 2014 and on each interest payment date thereafter. This third tranche also pays coupons denominated in Dollars at a fixed rate until the call date and at a floating rate thereafter. On May 9, 2007, CEMEX, through a special purpose vehicle, issued a fourth tranche of fixed-to-floating rate callable perpetual debentures. C10-EUR Capital (SPV) Limited issued €730 million in perpetual debentures under this fourth tranche, with the issuer having the option to redeem the debentures on June 30, 2017 and on each interest payment date thereafter. This fourth tranche pays coupons denominated in Euros at a fixed rate until the call date and at a floating rate thereafter. Due to their perpetual nature and optional deferral of coupons, these transactions, in accordance with Mexican FRS, qualify as equity. On May 22, 2009, we notified the debenture holders of our decision to exercise our option to defer, by one day, the scheduled interest payments otherwise due and payable on June 30, 2009 (see Item 5 — "Operating and Financial Review and Prospects — Our Perpetual Debentures").

On March 5, 2007, CEMEX Finance Europe B.V., issued €900 million in notes paying a fixed coupon of 4.75% and maturing in 2014. The notes have been listed for trading on the London Stock Exchange's Professional Securities Market. The notes are guaranteed by CEMEX España.

On June 2, 2008, CEMEX, through one of its subsidiaries, closed two identical U.S.$525 million facilities with a group of relationship banks. Each facility allowed the principal amount to be automatically extended for consecutive six month periods indefinitely after a period of three years by CEMEX and included an option of CEMEX to defer interest at any time (except in limited situations), subject to the absence of an event of default under the facility. The amounts outstanding under the facilities, because of the interest deferral provision and the option of CEMEX to extend the maturity of the principal amounts indefinitely, had been treated as equity for accounting purposes in accordance with Mexican FRS and as debt under U.S. GAAP, in the same manner as CEMEX's outstanding perpetual debentures. Obligations of CEMEX under each facility rank *pari-passu* with CEMEX's obligations under the perpetual debentures and its senior unsecured indebtedness. Within the first three years that each facility is in place, CEMEX, subject to the satisfaction of specified conditions, had options to convert all (and not part) of the respective amounts outstanding under the respective facilities into maturity loans, each with a fixed maturity date of June 30, 2011. CEMEX exercised its conversion options under both facilities on December 31, 2008. As a result, these facilities are due on June 30, 2011. The two facilities were amended on January 22, 2009.

In June 2008, CEMEX entered into a structured transaction comprised of: (i) a U.S.$500 million Credit Agreement, dated June 25, 2008 and amended on December 18, 2008 and January 22, 2009, among CEMEX, S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V, as guarantor, and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch, as lender; (ii) a U.S.$500 million aggregate notional amount of Put Spread Option Confirmations, dated June 3, 2008 and June 5, 2008, between Centro Distribuidor de Cemento, S.A. de C.V. and Banco Santander, S.A., Institución de Banca Múltiple, Grupo Financiero Santander; and (iii) a Framework Agreement, dated June 25, 2008, by and among CEMEX, S.A.B. de C.V., CEMEX México S.A. de C.V, Banco Santander (Mexico), S.A., Institución de Banca Múltiple, Grupo Financiero Santander and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch.

On October 14, 2008, CEMEX entered into a U.S.$250 million two-year amortizing credit agreement with Banco de Comercio Exterior, S.N.C., a Mexican government development bank, payable in six equal quarterly installments beginning in July 2009.

On January 27, 2009, CEMEX entered into a U.S.$437.50 million and Ps4.77 billion joint bilateral facility. The facility is due on February 28, 2011, with U.S.$300 million amortizing in 2009 and U.S.$138 million amortizing in 2010. The credit agreement is guaranteed by CEMEX México, S.A. de C.V. and CEMEX Concretos, S.A. de C.V.

On January 27, 2009, CEMEX España, S.A., entered into a U.S.$617.5 million and €587.5 million joint bilateral facility. The facility is due on February 28, 2011, with U.S.$501 million amortizing in 2009 and U.S.$181 million amortizing in 2010. The joint bilateral facility is guaranteed by CEMEX Australia Holdings Pty Limited and CEMEX Inc. The joint bilateral facility was amended on January 30, 2009 to incorporate a number of minor technical modifications.

In April 2009, CEMEX Concretos, S.A. de C.V., closed with BANOBRAS S.N.C., a Mexican government development bank, a Ps5,000 million credit

facility under a government program established to support infrastructure development in Mexico. We have made an initial drawdown of Ps2,087 million under this facility to satisfy obligations derived from public works awarded to CEMEX in Mexico. This facility is part of a government program to provide financing to suppliers and contractors in the infrastructure sector in Mexico. As part of this agreement, we mortgaged CEMEX México industrial facility in Hermosillo Sonora, México.

On June 15, 2009, we announced our agreement to sell all Australian operations to Holcim for approximately 2.02 billion Australian Dollars (approximately U.S.$1.62 billion considering the exchange rate of 1.25 AUD$ per US Dollar at June 15, 2009). All the proceeds of the sale will be used to reduce debt. The transaction is subject to regulatory approval, due diligence and other closing conditions.

During the first quarter of 2009, we entered into a Conditional Waiver and Extension Agreement with a group of our bank lenders. The lenders party to the Conditional Waiver and Extension Agreement have agreed to extend to July 31, 2009 scheduled principal payment obligations which were originally due between March 24, 2009 and July 31, 2009. We entered into the Conditional Waiver and Extension Agreement to give us time to negotiate a broader debt refinancing. As of June 26, 2009, principal payments in an aggregate principal amount of approximately U.S.$1,166 million have been extended under the Conditional Waiver and Extension Agreement. Upon expiration of the Conditional Waiver and Extension Agreement (currently scheduled for July 31, 2009), the extended amounts will become immediately due and payable and the remaining amounts with longer maturities under the relevant facilities (in an aggregate principal amount of approximately U.S.$12,924 million as of June 26, 2009) will be capable of being accelerated by a vote of the requisite lenders under each relevant facility. Additionally, under the Conditional Waiver and Extension Agreement, a termination event may occur in a variety of situations that are not in our control including, but not limited to, a lender increasing pricing on a relevant existing facility and a lender declaring a default or canceling any relevant existing facility. We cannot provide assurance that we will be able to enter into a refinancing plan to replace the Conditional Waiver and Extension Agreement prior to July 31, 2009 or to extend the Conditional Waiver and Extension Agreement to a later date. In connection with the Conditional Waiver and Extension Agreement, CEMEX entered into a Derivatives Side Letter pursuant to which, subject to certain exceptions, CEMEX agreed to cause all the derivatives positions to which it or its subsidiaries is a party to be closed out.

Exchange Controls

See "Item 3— Key Information — Mexican Peso Exchange Rates."

Taxation

Mexican Tax Considerations

General

The following is a summary of certain Mexican federal income tax considerations relating to the ownership and disposition of our CPOs or ADSs.

This summary is based on Mexican income tax law that is in effect on the date of this annual report, which is subject to change. This summary is limited to non-residents of Mexico, as defined below, who own our CPOs or ADSs. This summary does not address all aspects of Mexican income tax law. Holders are urged to consult their tax counsel as to the tax consequences that the purchase, ownership and disposition of our CPOs or ADSs, may have.

For purposes of Mexican taxation, an individual is a resident of Mexico if he or she has established his or her home in Mexico. If the individual also has a home in another country, he or she will be considered a resident of Mexico if his or her center of vital interests is in Mexico. Under Mexican law, an individual's center of vital interests is in Mexico if, among other things:

- more than 50% of the individual's total income in the relevant year comes from Mexican sources; or
- the individual's main center of professional activities is in Mexico.

A legal entity is a resident of Mexico if it is organized under the laws of Mexico or if it maintains the principal administration of its business or the effective location of its management in Mexico.

A Mexican citizen is presumed to be a resident of Mexico for tax purposes unless such person or entity can demonstrate otherwise. If a legal entity or an individual is deemed to have a permanent establishment in Mexico for tax purposes, all income attributable to such permanent establishment will be subject to Mexican taxes, in accordance with relevant tax provisions.

Individuals or legal entities that cease to be residents of Mexico must notify the tax authorities within 15 business days before their change of residency.

A non-resident of Mexico is a legal entity or individual that does not satisfy the requirements to be considered a resident of Mexico for Mexican federal income tax purposes.

Taxation of Dividends

Dividends, either in cash or in any other form, paid to non-residents of Mexico with respect to A shares or B shares represented by the CPOs (or in the case of holders who hold CPOs represented by ADSs), will not be subject to withholding tax in Mexico.

Disposition of CPOs or ADSs

Gains on the sale or disposition of ADSs by a holder who is a non-resident of Mexico will not be subject to Mexican tax.

Gains on the sale or disposition of CPOs by a holder who is a non-resident of Mexico will not be subject to any Mexican tax if the sale is carried out through the Mexican Stock Exchange or other recognized securities market, as determined by Mexican tax authorities. Gains realized on sales or other dispositions of CPOs by non-residents of Mexico made in other circumstances would be subject to Mexican income tax.

Under the terms of the Convention Between the United States and Mexico for Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Income Taxes, and a Protocol thereto, the Tax Treaty, gains obtained by a U.S. Shareholder eligible for benefits under the Tax Treaty on the disposition of CPOs will not generally be subject to Mexican tax, provided that such gains are not attributable to a permanent establishment of such U.S. Shareholder in Mexico and that the eligible U.S. Shareholder did not own, directly or indirectly, 25% or more of our outstanding stock during the 12-month period preceding the disposition. In the case of non-residents of Mexico eligible for the benefits of a tax treaty, gains derived from the disposition of ADSs or CPOs may also be exempt, in whole or in part, from Mexican taxation under a treaty to which Mexico is a party.

Deposits and withdrawals of ADSs will not give rise to any Mexican tax or transfer duties.

The term U.S. Shareholder shall have the same meaning ascribed below under the section "— U.S. Federal Income Tax Considerations."

Estate and Gift Taxes

There are no Mexican inheritance or succession taxes applicable to the ownership, transfer or disposition of ADSs or CPOs by holders that are non-residents of Mexico, although gratuitous transfers of CPOs may, in some circumstances, cause a Mexican federal tax to be imposed upon a recipient. There are no Mexican stamp, issue, registration or similar taxes or duties payable by holders of ADSs or CPOs.

U.S. Federal Income Tax Considerations

General

The following is a summary of the material U.S. federal income tax consequences relating to the ownership and disposition of our CPOs and ADSs.

This summary is based on provisions of the U.S. Internal Revenue Code, or the Code, of 1986, as amended, U.S. Treasury regulations promulgated under the Code, and administrative rulings, and judicial interpretations of the Code, all as in effect on the date of this annual report and all of which are subject to change, possibly retroactively. This summary is limited to U.S. Shareholders (as defined below) who hold our ADSs or CPOs, as the case may be, as capital assets. This summary does not discuss all aspects of U.S. federal income taxation which may be important to an investor in light of its individual circumstances, for example, an investor subject to special tax rules (e.g., banks, thrifts, real estate investment trusts, regulated investment companies, insurance companies, dealers in securities or currencies, expatriates, tax-exempt investors, persons who own 10% or more of our voting stock, or holders whose functional currency is not the Dollar or U.S. Shareholders who hold a CPO or an ADS as a position in a "straddle," as part of a "synthetic security" or "hedge," as part of a "conversion transaction" or other integrated investment, or as other than a capital asset). In addition, this summary does not address any aspect of state, local or foreign taxation.

For purposes of this summary, a "U.S. Shareholder" means a beneficial owner of CPOs or ADSs, who is for U.S. federal income tax purposes:

- an individual who is a citizen or resident of the United States for U.S. federal income tax purposes;
- a corporation or other entity taxable as a corporation that is created or organized in the United States or under the laws of the United States or any political subdivision thereof;

- an estate the income of which is includible in gross income for U.S. federal income tax purposes regardless of its source; or
- a trust if a court within the United States is able to exercise primary supervision over the administration of such trust and one or more United States persons who have the authority to control all substantial decisions of such trust.

If a partnership (including any entity treated as a partnership for U.S. federal income tax purposes) is the beneficial owner of CPOs or ADSs, the U.S. federal income tax treatment of a partner in such partnership will generally depend upon the status of the partner and the activities of the partnership. A partner in a partnership that is the beneficial owner of CPOs or ADSs is urged to consult its own tax advisor regarding the associated tax consequences.

U.S. Shareholders should consult their own tax advisors as to the particular tax consequences to them under United States federal, state and local, and foreign laws relating to the ownership and disposition of our CPOs and ADSs.

Ownership of CPOs or ADSs in general

In general, for U.S. Federal income tax purposes, U.S. Shareholders who own ADSs will be treated as the beneficial owners of the CPOs represented by those ADSs, and each CPO will represent a beneficial interest in two A shares and one B share.

Taxation of dividends with respect to CPOs and ADSs

Distributions of cash or property with respect to the A shares or B shares represented by CPOs, including CPOs represented by ADSs, generally will be includible in the gross income of a U.S. Shareholder as foreign source "passive" or "general category" income on the date the distributions are received by the CPO trustee or successor thereof, to the extent paid out of our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. These dividends will not be eligible for the dividends-received deduction allowed to corporate U.S. Shareholders. To the extent, if any, that the amount of any distribution by us exceeds our current and accumulated earnings and profits as determined under U.S. federal income tax principles, it will be treated first as a tax-free return of the U.S. Shareholder's adjusted tax basis in the CPOs or ADSs and thereafter as capital gain.

The gross amount of any dividends paid in Pesos will be includible in the income of a U.S. Shareholder in a Dollar amount calculated by reference to the exchange rate in effect the day the Pesos are received by the CPO trustee or successor thereof whether or not they are converted into Dollars on that day. Generally, any gain or loss resulting from currency exchange fluctuations during the period from the date the dividend payment is includible in income to the date such payment is converted into Dollars will be treated as ordinary income or loss. Such gain or loss will generally be income from sources within the United States for foreign tax credit limitation purposes.

Dividend income is generally taxed as ordinary income. However, a maximum United States federal income tax rate of 15 percent will apply to "qualified dividend income" received by U.S. Shareholders that are individuals (as well as certain trusts and estates) in taxable years beginning before January 1, 2011, provided that certain holding period requirements are met. "Qualified dividend income" includes dividends paid on shares of "qualified foreign corporations" if, among other things: (i) the shares of the foreign corporation are readily tradable on an established securities market in the United States, or (ii) the foreign corporation is eligible with respect to substantially all of its income for the benefits of a comprehensive income tax treaty with the United States which contains an exchange of information program.

We believe that we are a "qualified foreign corporation" because (i) the ADSs trade on the New York Stock Exchange and (ii) we are eligible for the benefits of the comprehensive income tax treaty between Mexico and the United States which includes an exchange of information program. Accordingly, we believe that any dividends we pay should constitute "qualified dividend income" for United States federal income tax purposes. There can be no assurance, however, that we will continue to be considered a "qualified foreign corporation" and that our dividends will continue to be "qualified dividend income."

Taxation of capital gains on disposition of CPOs or ADSs

The sale or exchange of CPOs or ADSs will result in the recognition of gain or loss by a U.S. Shareholder for U.S. federal income tax purposes in an amount equal to the difference between the amount realized and the U.S. Shareholder's tax basis therein. That gain or loss recognized by a U.S. Shareholder will be long-term capital gain or loss if the U.S. Shareholder's holding period for the CPOs or ADSs exceeds one year at the time of disposition. Long-term capital gain realized by a U.S. Shareholder that is an individual (as well as certain trusts and estates) upon the sale or exchange of CPOs or ADSs before the end of a taxable year which begins before January 1, 2011, generally will be subject to a maximum United States federal income tax rate of 15 percent. The deduction of capital losses is subject to limitations. Gain from the sale or exchange of the CPOs or ADSs usually will be treated as U.S. source for foreign tax credit purposes; losses will generally be allocated against U.S. source income. Deposits and withdrawals of CPOs by U.S. Shareholders in exchange for ADSs will not result in the realization of gain or loss for U.S. federal income tax purposes.

United States Backup Withholding and Information Reporting

A U.S. Shareholder may, under certain circumstances, be subject to information reporting with respect to some payments to that U.S. Shareholder such as dividends or the proceeds of a sale or other disposition of the CPOs or ADSs. Backup withholding at a 28 percent rate also may apply to amounts paid to such holder unless such holder (i) is a corporation or comes within certain exempt categories and demonstrates this fact when so required, or (ii) provides a correct taxpayer identification number and otherwise complies with applicable requirements of the backup withholding rules. Backup withholding is not an additional tax. Amounts withheld as backup withholding may be creditable against the U.S. Shareholder's federal income tax liability, and the U.S. Shareholder may obtain a refund of any excess amounts withheld under the backup withholding rules by filing the appropriate claim for refund with the Internal Revenue Service and furnishing any required information.

Documents on Display

We are subject to the informational requirements of the Securities Exchange Act of 1934 and, in accordance with these requirements, file reports and information statements and other information with the Securities and Exchange Commission. These reports and information statements and other information filed by us with the Securities and Exchange Commission can be inspected and copied at the public reference room of the Securities and Exchange Commission at 100 F Street, N.E., Washington, D.C. 20549.

In reviewing the agreements included as exhibits to this annual report, please remember they are included to provide you with information regarding their terms and are not intended to provide any other factual or disclosure information about us or the other parties to the agreements.

The agreements may contain representations and warranties by each of the parties to the applicable agreement. These representations and warranties have been made solely for the benefit of the other parties to the applicable agreement and:

- should not in all instances be treated as categorical statements of fact, but rather as a way of allocating the risk to one of the parties if those statements prove to be inaccurate;
- have been qualified by disclosures that were made to the other party in connection with the negotiation of the applicable agreement, which disclosures are not necessarily reflected in the agreement;
- may apply standards of materiality in a way that is different from what may be viewed as material to you or other investors; and

- were made only as of the date of the applicable agreement or such other date or dates as may be specified in the agreement and are subject to more recent developments.

Accordingly, these representations and warranties may not describe the actual state of affairs as of the date they were made or at any other time.

Item 11 - Qualitative and Quantitative Disclosures About Market Risk

See "Item 5 — Operating and Financial Review and Prospects – Qualitative and Quantitative Market Disclosure – Our Derivative Financial Instruments."

Item 12 - Description of Securities Other than Equity Securities

Not applicable.

PART II

Item 13 - Defaults, Dividend Arrearages and Delinquencies

None.

Item 14 - Material Modifications to the Rights of Security Holders and Use of Proceeds

None.

Item 15 - Controls and Procedures

Disclosure Controls and Procedures

We maintain a system of disclosure controls and procedures designed to provide reasonable assurance that information required to be disclosed in the reports that we file under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is communicated to our management, including our Chief Executive Officer and Executive Vice President of Planning and Finance, to allow timely decisions regarding required disclosure.

Our Chief Executive Officer and Executive Vice President of Planning and Finance have evaluated the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act). Based on such evaluation, such officers have concluded that our disclosure controls and procedures are effective as of December 31, 2008.

Annual Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in the rules promulgated under the Exchange Act. Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of our financial reporting and the preparation of financial statements for external reporting purposes in accordance with generally accepted accounting principles. Because of its inherent limitations, internal control over financial reporting is not intended to provide absolute assurance that a misstatement of our financial statements would be prevented or detected.

Under the supervision and with the participation of our management, including our Chief Executive Officer and principal financial and accounting officers, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in "Internal Control —Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). The evaluation included a review of the documentation of controls, evaluation of the design effectiveness of controls, and testing of the operating effectiveness of controls.

Based on this evaluation, our management has concluded that internal control over financial reporting was effective as of December 31, 2008.

KPMG Cárdenas Dosal, S.C., the registered public accounting firm that audited our financial statements included elsewhere in this annual report, has issued an attestation report on our internal control over financial reporting.

Changes in Internal Control Over Financial Reporting

During 2008, we initiated a process to homologate the IT platform in ready mix and aggregates operations, including our Enterprise Resource Planning ("ERP") system, in order to support our business model in all our operations in the U.S. We plan to continue with the implementation of this platform over the course of 2009 for all our operations including cement. Our management believes this business model improves the efficiency of our operations and financial information process.

We identified no other changes in our internal control over financial reporting during 2008 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 16A - Audit Committee Financial Expert

Our board of directors has determined that it has an "audit committee financial expert" (as defined in Item 16A of Form 20-F) serving on its audit committee. Mr. José Manuel Rincón Gallardo meets the requisite qualifications.

Item 16B - Code of Ethics

We have adopted a written code of ethics that applies to all our senior executives, including our principal executive officer, principal financial officer and principal accounting officer.

You may view our code of ethics in the corporate governance section of our website (www.cemex.com), or you may request a copy of our code of ethics, at no cost, by writing to or telephoning us as follows:

CEMEX, S.A.B. de C.V.
Av. Ricardo Margáin Zozaya #325
Colonia Valle del Campestre
Garza García, Nuevo León, México 66265.
Attn: Luis Hernández or Javier Amaya
Telephone: (011-5281) 8888-8888

Item 16C - Principal Accountant Fees and Services

Audit Fees: KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide charged us approximately Ps203 million in fiscal year 2008 in connection with the professional services rendered for the audit of our annual financial statements and services normally provided by them relating to statutory and regulatory filings or engagements. In fiscal year 2007, KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide billed us approximately Ps247 million for these services.

Audit-Related Fees: KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide billed us approximately Ps48 million in fiscal year 2008 for assurance and related services reasonably related to the performance of our audit. In fiscal year 2007, KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide charged us approximately Ps34 million for audit-related services.

Tax Fees: KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide charged us approximately Ps30 million in fiscal year 2008 for tax compliance, tax advice and tax planning. KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide billed us approximately Ps70 million for tax-related services in fiscal year 2007.

All Other Fees: KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide billed us Ps3 million in fiscal year 2008 for products and services other than those comprising audit fees, audit-related fees and tax fees. In fiscal year 2007, KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide charged us approximately Ps16 million for products and services in this category. These fees relate mainly to services provided by KPMG to us with respect to our due diligence activities around the world.

Audit Committee Pre-approval Policies and Procedures

Our audit committee is responsible, among other things, for the appointment, compensation and oversight of our external auditors. To assure the independence of our independent auditors, our audit committee pre-approves annually a catalog of specific audit and non-audit services in the categories Audit Services, Audit-Related Services, Tax-Related Services, and Other Services that may be performed by our auditors, as well as the budgeted fee levels for each of these categories. All other permitted services must receive a specific approval from our audit committee. Our external auditor periodically provides a report to our audit committee in order for our audit committee to review the services that our external auditor is providing, as well as the status and cost of those services.

During 2008, none of the services provided to us by our external auditors were approved by our audit committee pursuant to the de minimis exception to the pre-approval requirement provided by paragraph (c)(7)(i)(c) of Rule 2-01 of Regulation S-X.

Item 16D - Exemptions from the Listing Standards for Audit Committees

Not applicable.

Item 16E - Purchases of Equity Securities by the Issuer and Affiliated Purchasers

In connection with our 2005 and 2006 annual shareholders' meetings held on April 27, 2006, and April 26, 2007, respectively, our shareholders approved stock repurchase programs in an amount of up to Ps6,000 million (nominal amount) implemented between April 2006 and April 2008. No shares were purchased under these programs.

In connection with our 2007 annual shareholders' meeting held on April 24, 2008, our shareholders approved a stock repurchase program in an amount of up to Ps6,000 million (nominal amount) to be implemented between April 2008 and April 2009. No shares were repurchased under this program.

Item 16G - Corporate Governance

Section 303A.11 of the New York Stock Exchange ("NYSE") Listed Company Manual ("LCM"), requires that listed foreign private issuers, such as CEMEX, disclose any significant ways in which their corporate governance practices differ from those followed by U.S. companies under NYSE listing standards.

CEMEX's corporate governance practices are governed by its bylaws, by the corporate governance provisions set forth in the *Ley del Mercado de Valores* (the "Mexican Securities Market Law"), the *Circular de Emisoras* (the "Mexican Regulation for Issuers") issued by the *Comisión Nacional Bancaria y de Valores* (the "Mexican Banking and Securities Commission") and the *Reglamento Interior de la Bolsa Mexicana de Valores* (the "Mexican Stock Exchange Rules") (the Mexican Securities Market Law, the Mexican Regulation for Issuers and the Mexican Stock Exchange Rules, collectively the "Mexican Laws and Regulations"), and by applicable U.S. securities laws. CEMEX is also subject to the rules of the NYSE (the "NYSE Rules") to the extent they apply to foreign private issuers. Except for those specific rules, foreign private issuers are permitted to follow home country practice in lieu of the provisions of Section 303A of the LCM.

CEMEX, on a voluntary basis, also complies with the *Código de Mejores Prácticas Corporativas* (the "Mexican Code of Best Corporate Practices") as indicated below, which was promulgated by a committee established by the *Consejo Coordinador Empresarial* ("Mexican Corporate Coordination Board"). The Mexican Corporate Coordination Board provides recommendations for better corporate governance practices for listed companies in Mexico, and the Mexican Code of Best Corporate Practices has been endorsed by the Mexican Banking and Securities Commission.

The following is a summary of significant ways in which our corporate governance practices differ from those required to be followed by U.S. domestic companies under the NYSE's listing standards.

NYSE LISTING STANDARDS	CEMEX CORPORATE GOVERNANCE PRACTICE
303A.01 Listed companies must have a majority of independent directors.	Pursuant to the Mexican Securities Market Law, we are required to have a board of directors with a maximum of 21 members, 25% of whom must be independent. Determination as to the independence of our directors is made upon their election by our shareholders at the corresponding meeting. Currently, our Board of Directors has 12 members and 3 alternate members, of which more than 25% are independent under the Mexican Securities Market Law. The Mexican Securities Market Law sets forth, in article 26, the definition of "independence", which differs from the one set forth in Section 303A.02 of the LCM. Generally, under the Mexican Securities Market Law, a director is not independent if such director is an employee or officer of the company or its subsidiaries; an individual that has significant influence over the company or its subsidiaries; a shareholder that is part of a group that controls the company; or, if there exist certain relationships between a company and a director, entities with which the director is associated or family members of the director.
303A.03 Non-management directors must meet at regularly executive sessions without management.	Under our bylaws and the Mexican Laws and Regulations, our non-management and independent directors are not required to meet in executive sessions. Our Board of Directors must meet at least once every three months.
303A.04 Listed companies must have a nominating/corporate governance committee composed of independent directors.	Under our bylaws and the Mexican Laws and Regulations, we are not required to have a nominating committee. We do not have such a committee. Our Corporate Practices Committee operates pursuant to the provisions of the Mexican Securities Market Law and our bylaws. Our Corporate Practices Committee is composed of four independent directors. Our Corporate Practices Committee is responsible for evaluating the performance of our executive officers; reviewing related party transactions; reviewing the compensation paid to executive officers; evaluating any waivers granted to directors or executive officers for their taking of corporate opportunities; and carrying out the activities described under Mexican law. Our Corporate Practices Committee meets as required by our bylaws and by the Mexican Laws and Regulations.
303A.05 Listed companies must have a compensation committee composed of independent directors.	Under our bylaws and the Mexican Laws and Regulations, we are not required to have a compensation committee. We do not have such committee.

303A.06 Listed companies must have an audit committee that satisfies the requirements of Rule 10A-3 under the Exchange Act.	Our Audit Committee operates pursuant to the provisions of the Mexican Securities Market Law and our bylaws. Our Audit Committee is composed of four members. According to our by-laws, all of the members must be independent. Our Audit Committee is responsible for evaluating the company's internal controls and procedures, identifying any material deficiencies it finds; following up with any corrective or preventive measures adopted with respect to the non-compliance with the operation and accounting guidelines and policies; evaluating the performance of the external auditors; describing and valuating those non-audit services rendered by the external auditor; reviewing the company's financial statements; assessing the effects of any modifications to the accounting policies approved during a fiscal year; overseeing measures adopted as result of any observations made by shareholders, directors, executive officers, employees or any third parties with respect to accounting, internal controls and internal and external audit, as well as any complaints regarding irregularities on management, including anonymous and confidential methods for addressing concerns raised by employees; assuring the execution of resolutions adopted at shareholders' or board of directors' meetings. Our Board of Directors has determined that it has an "audit committee financial expert", for purposes of the Sarbanes-Oxley Act of 2002, serving on its Audit Committee. Our Audit Committee meets as required by our bylaws and by the Mexican Laws and Regulations.
303A.09 Listed companies must adopt and disclose corporate governance guidelines.	Under our bylaws and the Mexican Laws and Regulations, we are not required to adopt corporate governance guidelines, but, on an annual basis, we file a report with the *Bolsa Mexicana de Valores* (the "Mexican Stock Exchange") regarding our compliance with the Mexican Code of Best Corporate Practices.
303A.10 Listed companies must adopt and disclose a code of business conduct and ethics for directors, officers and employees, and promptly disclose any waivers of the code for directors or executive officers.	We have adopted a written code of ethics that applies to all of employees, including our principal executive officer, principal financial officer and principal accounting officer.
Equity compensation plans Equity compensation plans require shareholder approval, subject to limited exemptions.	Shareholder approval is not expressly required under our bylaws for the adoption and amendment of an equity compensation plan. No equity compensation plans have been submitted for approval by our shareholders.

PART III

Item 17 - Financial Statements

Not applicable.

Item 18 - Financial Statements

See pages F-1 through F-82, incorporated herein by reference.

Item 19 - Exhibits

1.1	Amended and Restated By-laws of CEMEX, S.A.B. de C.V. (a)
2.1	Form of Trust Agreement between CEMEX, S.A.B. de C.V., as founder of the trust, and Banco Nacional de México, S.A. regarding the CPOs. (b)
2.2	Amendment Agreement, dated November 21, 2002, amending the Trust Agreement between CEMEX, S.A.B. de C.V., as founder of the trust, and Banco Nacional de México, S.A. regarding the CPOs. (c)
2.3	Form of CPO Certificate. (b)
2.4	Form of Second Amended and Restated Deposit Agreement (A and B share CPOs), dated August 10, 1999, among CEMEX, S.A.B. de C.V., Citibank, N.A. and holders and beneficial owners of American Depositary Shares. (b)
2.5	Form of American Depositary Receipt (included in Exhibit 2.3) evidencing American Depositary Shares. (b)
2.6	Form of Certificate for shares of Series A Common Stock of CEMEX, S.A.B. de C.V. (b)
2.7	Form of Certificate for shares of Series B Common Stock of CEMEX, S.A.B. de C.V. (b)
4.1	Note Purchase Agreement, dated June 23, 2003, by and among CEMEX España Finance, LLC, as issuer, and several institutional purchasers named therein, in connection with the issuance by CEMEX España Finance, LLC of U.S.$103 million aggregate principal amount of Senior Notes due 2010, U.S.$96 million aggregate principal amount of Senior Notes due 2013 and U.S.$201 million aggregate principal amount of Senior Notes due 2015. (d)
4.1.1	Amendment No. 1 to Note Purchase Agreement, dated September 1, 2006. (g)
4.2	€250,000,000 and ¥19,308,000,000 Amended and Restated Term and Revolving Facilities Agreement, originally dated March 30, 2004, amended on October 10, 2006 and April 7, 2009, by and among CEMEX España, as borrower, Banco Bilbao Vizcaya Argentaria, S.A. and Société Générale, as mandated lead arrangers, and the several banks and other financial institutions named therein, as lenders. (i)
4.3	CEMEX España Finance LLC Note Purchase Agreement, dated April 15, 2004 for ¥4,980,600,000 1.79% Senior Notes, Series 2004, Tranche 1, due 2010 and ¥6,087,400,000 1.99% Senior Notes, Series 2004, Tranche 2, due 2011. (e)
4.3.1	Amendment No. 1 to CEMEX España Finance LLC Note Purchase Agreement, dated September 1, 2006. (g)
4.4	U.S.$700,000,000 Amended and Restated Credit Agreement, dated June 6, 2005, among CEMEX, S.A.B. de C.V., as borrower and CEMEX México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as guarantors, Barclays Bank PLC as issuing bank and documentation agent, ING Bank N.V., as issuing bank, Barclays Capital, as joint bookrunner, and ING Capital LLC as joint bookrunner and administrative agent. (g)
4.4.1	Amendment No. 1 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated June 21, 2006. (g)
4.4.2	Amendment and Waiver Agreement to U.S.$700,000,000 Amended and Restated Credit Agreement, dated December 1, 2006. (g)
4.4.3	Amendment No. 3 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated May 9, 2007. (g)

4.4.4	Amendment No. 4 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated December 19, 2008. (i)
4.4.5	Amendment No. 5 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated January 22, 2009. (i)
4.5	U.S.$2,300,000,000 Amended and Restated Term and Revolving Facilities Agreement, originally dated September 24, 2004, amended on November 8, 2004, February 25, 2005, July 7, 2005, June 30, 2006, December 18, 2008, for CEMEX España, S.A., as borrower, arranged by Citigroup Global Markets Limited and Goldman Sachs International with Citibank International PLC, as agent. (i)
4.6	Implementation Agreement, dated September 27, 2004, by and between CEMEX U.K. Limited and RMC Group p.l.c. (e)
4.7	Scheme of Arrangement, dated October 25, 2004, pursuant to which CEMEX U.K. Limited acquired the outstanding shares of RMC Group p.l.c. (e)
4.8	Asset Purchase Agreement by and between CEMEX, Inc. and Votorantim Participações S.A., dated February 4, 2005. (e)
4.8.1	Amendment No. 1 to Asset Purchase Agreement, dated as of March 31, 2005, by and between CEMEX, Inc. and Votorantim Participações S.A. (e)
4.9	U.S.$1,200,000,000 Term Credit Agreement, dated May 31, 2005, among CEMEX, S.A.B. de C.V., as borrower, CEMEX México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as guarantor, Barclays Bank PLC, as administrative agent, Barclays Capital, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner. (f)
4.9.1	Amendment No. 1 to U.S.$1,200,000,000 Term Credit Agreement, dated June 19, 2006. (g)
4.9.2	Amendment and Waiver Agreement to U.S.$1,200,000,000 Term Credit Agreement, dated November 30, 2006. (g)
4.9.3	Amendment No. 3 to U.S.$1,200,000,000 Term Credit Agreement, dated May 9, 2007. (g)
4.9.4	Amendment No. 4 to U.S.$1,200,000,000 Term Credit Agreement, dated December 19, 2008. (i)
4.9.5	Amendment No. 5 to U.S.$1,200,000,000 Term Credit Agreement, dated January 22, 2009. (i)
4.10	U.S.$700,000,000 Amended and Restated Term and Revolving Facilities Agreement, originally dated June 27, 2005, amended on June 22, 2006, November 30, 2006, December 19, 2008 and January 23, 2009, for New Sunward Holding B.V., as borrower, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and Empresas Tolteca De México, S.A. de C.V., as guarantors, arranged by Banco Bilbao Vizcaya Argentaria, S.A., BNP Paribas and Citigroup Global Markets Limited, as mandated lead arrangers and joint bookrunners, the several financial institutions named therein, as Lenders, and Citibank, N.A., as agent. (i)
4.11	Note Purchase Agreement, dated June 13, 2005, among CEMEX España Finance LLC, as issuer, and several institutional purchasers, relating to the private placement by CEMEX España Finance, LLC of U.S.$133,000,000 aggregate principal amount of 5.18% Senior Notes due 2010, and U.S.$192,000,000 aggregate principal amount of 5.62% Senior Notes due 2015. (f)
4.11.1	Amendment No. 1 to Note Purchase Agreement, dated September 1, 2006. (g)
4.12	Amended and Restated Limited Liability Company Agreement of CEMEX Southeast LLC, dated July 1, 2005, among CEMEX Southeast LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.12.1	Amendment No. 1 to Amended and Restated Limited Liability Company Agreement of CEMEX Southeast LLC, dated as of September 1, 2005, among CEMEX Southeast LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.13	Limited Liability Company Agreement of Ready Mix USA, LLC, dated July 1, 2005, among Ready Mix USA, LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.13.1	Amendment No. 1 to Limited Liability Company Agreement of Ready Mix USA, LLC, dated September 1, 2005, among Ready Mix USA, LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)

4.14	Asset and Capital Contribution Agreement, dated July 1, 2005, among Ready Mix USA, Inc., CEMEX Southeast Holdings, LLC, and CEMEX Southeast LLC. (f)
4.15	Asset and Capital Contribution Agreement, dated July 1, 2005, among Ready Mix USA, Inc., CEMEX Southeast Holdings, LLC, and Ready Mix USA, LLC. (f)
4.16	Asset Purchase Agreement, dated September 1, 2005, between Ready Mix USA, LLC and RMC Mid-Atlantic, LLC. (f)
4.17	U.S.$1,200,000,000 Acquisition Facility Agreement, dated October 24, 2006, between CEMEX S.A.B. de C.V., as borrower, CEMEX México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as guarantors, and BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as agent. (g)
4.18	U.S.$6,000,000,000 Amended and Restated Acquisition Facilities Agreement, originally dated December 6, 2006, amended on January 27, 2007, December 19, 2008 and January 27, 2009, between CEMEX España, S.A., as borrower, Citigroup Global Markets Limited, The Royal Bank of Scotland PLC, and Banco Bilbao Vizcaya Argentaria, S.A. as mandated lead arrangers and joint bookrunners, as amended on December 21, 2006. (i)
4.19	Debenture Purchase Agreement, dated December 11, 2006, among C5 Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and J.P. Morgan Securities Inc, as representative of the several initial institutional purchasers named therein, in connection with the issuance by C5 Capital (SPV) Limited of U.S.$350,000,000 aggregate principal amount of 6.196% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.20	Debenture Purchase Agreement, dated December 11, 2006, among C10 Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and J.P. Morgan Securities Inc, as representative of the several initial institutional purchasers named therein, in connection with the issuance by C10 Capital (SPV) Limited (CEMEX, S.A.B. de C.V.) of U.S.$900,000,000 aggregate principal amount of 6.722% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.21	Debenture Purchase Agreement, dated February 6, 2007, among C8 Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and J.P. Morgan Securities Inc, as representative of the several initial institutional purchasers named therein, in connection with the issuance by C8 Capital (SPV) Limited of U.S.$750,000,000 aggregate principal amount of 6.640% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.22	Trust Deed, dated February 28, 2007, among CEMEX Finance Europe B.V., as issuer, and several institutional purchasers, relating to the issuance by CEMEX Finance Europe B.V. of €900,000,000 aggregate principal amount of 4.75% Notes due 2014. (g)
4.23	Bid Agreement, dated April 9, 2007, among CEMEX, S.A.B. de C.V., CEMEX Australia Pty Ltd and Rinker Group Limited. (g)
4.24	Debenture Purchase Agreement, dated May 3, 2007, among C10-EUR Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and the institutional purchasers named therein, in connection with the issuance by C10-EUR Capital (SPV) Limited of €730,000,000 aggregate principal amount of 6.277% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.25	U.S.$525,000,000 Senior Unsecured Maturity Loan “A” Agreement, dated June 2, 2008 among New Sunward Holding B.V. as borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as guarantors, and a group of banks as lenders, HSBC Securities (USA) Inc., Banco Santander S.A. and The Royal Bank of Scotland Plc, as joint lead arrangers and Joint Bookrunners, and ING Capital LLC, as administrative agent. U.S.$525,000,000 Senior Unsecured Maturity Loan “B” Agreement, dated June 2, 2008 among New Sunward Holding B.V. as borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as guarantors, and a group of banks as lenders, HSBC Securities (USA) Inc., Banco Santander S.A. and The Royal Bank of Scotland Plc, as joint lead arrangers and Joint Bookrunners, and ING Capital LLC, as administrative agent. (h)
4.25.1	U.S.$525,000,000 Senior Unsecured Maturity Loan “A” Agreement, dated December 31, 2008 among New Sunward Holding B.V. as borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as guarantors, and a group of banks as lenders, HSBC Securities (USA) Inc., Banco Santander S.A. and The Royal Bank of Scotland Plc, as joint lead arrangers and Joint Bookrunners, and ING Capital LLC, as administrative agent. (i)
4.25.2	Amendment No. 1 to U.S.$525,000,000 Senior Unsecured Maturity Loan “A” Agreement, dated January 22, 2009. (i)
4.25.3	U.S.$525,000,000 Senior Unsecured Maturity Loan “B” Agreement, dated December 31, 2008 among New Sunward Holding B.V. as borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as guarantors, and a group of banks as lenders, HSBC Securities (USA) Inc., Banco Santander S.A. and The Royal Bank of Scotland Plc, as joint lead arrangers and Joint Bookrunners, and ING Capital LLC, as administrative agent. (i)
4.25.4	Amendment No. 1 to U.S.$525,000,000 Senior Unsecured Maturity Loan “B” Agreement, dated January 22, 2009. (i)

4.26	Forward Transaction (CEMEX Shares) Confirmation, Forward Transaction (NAFTRAC Shares) and Put Option Transaction Confirmation, with Credit Support Annex, each dated April 23, 2008, between Citibank, N.A. and a Mexican trust established by CEMEX on behalf of CEMEX's Mexican pension fund and certain of CEMEX's directors and current and former employees. (h)
4.27	Structured Transaction, dated June 2008, comprised of: (i) U.S.$500 million Credit Agreement, dated June 25, 2008, among CEMEX, S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V, as guarantor, and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch, as lender; (ii) U.S.$500 million aggregate notional amount of Put Spread Option Confirmations, dated June 3, 2008 and June 5, 2008, between Centro Distribuidor de Cemento, S.A. de C.V. and Banco Santander, S.A., Institución de Banca Múltiple, Grupo Financiero Santander; and (iii) Framework Agreement, dated June 25, 2008, by and among CEMEX, S.A.B. de C.V., CEMEX México S.A. de C.V, Banco Santander (Mexico), S.A., Institución de Banca Múltiple, Grupo Financiero Santander and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch. (h)
4.27.1	Amendment No. 1 to U.S.$500 million Credit Agreement dated December 18, 2008. (i)
4.27.2	Amendment No. 2 to U.S.$500 million Credit Agreement dated January 22, 2009. (i)
4.28	U.S.$437,500,000.00 and Ps$4,773,282,950.00 Credit Agreement, dated January 27, 2009 among CEMEX, S.A.B. de C.V., as borrower, CEMEX México, S.A. de C.V. and CEMEX Concretos, S.A. de C.V., as guarantors, and a group of banks, as lenders, BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as administrative agent, and BBVA Bancomer, S.A., Institución De Banca Múltiple, Grupo Financiero BBVA Bancomer, Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Santander Investment Securities Inc., and The Royal Bank of Scotland PLC, each a joint arranger and joint bookrunner. (i)
4.29	U.S$617,500,000 and €587,500,000 Facilities Agreement dated January 27, 2009, and among CEMEX España, S.A., as the obligors and original guarantors; Banco Santander, S.A. and The Royal Bank of Scotland PLC, as coordinators, financial institutions, as lenders; and The Royal Bank of Scotland PLC, as agent. (i)
4.30	U.S.$250,000,000 Credit Agreement dated October 14, 2008 among Banco Nacional De Comercio Exterior, Sociedad Nacional de Crédito, Institución de Banca de Desarrollo, as lender, and CEMEX, S.A.B. de C.V. as borrower. (i)
4.31	Committed U.S.$200,000,000 and uncommitted U.S.$100,000,000 Secured Bridge Facility Agreement dated March 20, 2009, among CEMEX España, S.A., as borrower, Banco Santander, S.A. and Banco Bilbao Vizcaya Argentaria, S.A, as lenders, and Banco Bilbao Vizcaya Argentaria, S.A., as facility agent. (i)
4.32	Conditional Waiver and Extension Agreement dated April 16, 2009, among CEMEX, S.A.B. de C.V. and CEMEX España, S.A., as obligors, for themselves and on behalf of each Subsidiary Obligor named therein, and a group of banks and financial institutions, as lenders. (i)
4.32.1	Amendment No. 1 to Conditional Waiver and Extension Agreement dated June 22, 2009. (i)
4.33	Ps$5,000,000,000, Revolving Credit Agreement "A" and "B" dated April 22, 2009, among Banco Nacional de Obras y Servicios Públicos, Sociedad Nacional de Crédito, Institución de Banca de Desarrollo ("BANOBRAS"), as lender, and CEMEX Concretos, S.A. de C.V., as borrower, including a First Priority Civil Mortgage granted by CEMEX México S.A. de C.V., as mortgagor, and BANOBRAS, as the mortgagee, and a First Priority Industrial Mortage, created and granted by CEMEX México S.A. de C.V. , as mortgagor, and BANOBRAS, as mortgagee. (i)
4.34	Credit Agreement dated April 22, 2009, among BANOBRAS, as lender, and CEMEX Concretos, S.A. de C.V., as borrower, including a Second Priority Civil Mortgage granted by CEMEX México S.A. de C.V., as mortgagor, and BANOBRAS, as mortgagee, and a Second Priority Industrial Mortage created and granted by CEMEX México S.A. de C.V., as mortgagor, and BANOBRAS, as mortgagee. (i)

8.1 List of subsidiaries of CEMEX, S.A.B. de C.V. (i)

12.1 Certification of the Principal Executive Officer of CEMEX, S.A.B. de C.V. pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. (i)

12.2 Certification of the Principal Financial Officer of CEMEX, S.A.B. de C.V. pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. (i)

13.1 Certification of the Principal Executive and Financial Officers of CEMEX, S.A.B. de C.V. pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. (i)

14.1 Consent of KPMG Cárdenas Dosal, S.C. to the incorporation by reference into the effective registration statements of CEMEX, S.A.B. de C.V. under the Securities Act of 1933 of their report with respect to the consolidated financial statements of CEMEX, S.A.B. de C.V., which appears in this Annual Report on Form 20-F. (i)

(a) Incorporated by reference to Post-Effective Amendment No. 4 to the Registration Statement on Form F-3 of CEMEX, S.A.B. de C.V. (Registration No. 333-11382), filed with the Securities and Exchange Commission on August 27, 2003.

(b) Incorporated by reference to the Registration Statement on Form F-4 of CEMEX, S.A.B. de C.V. (Registration No. 333-10682), filed with the Securities and Exchange Commission on August 10, 1999.

(c) Incorporated by reference to the 2002 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on April 8, 2003.

(d) Incorporated by reference to the 2003 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on May 11, 2004.

(e) Incorporated by reference to the 2004 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on May 27, 2005.

(f) Incorporated by reference to the 2005 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 8, 2006.

(g) Incorporated by reference to the 2006 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 27, 2007.

(h) Incorporated by reference to the 2007 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 30, 2008.

(i) Filed herewith.

In reviewing the agreements included as exhibits to this annual report, please remember they are included to provide you with information regarding their terms and are not intended to provide any other factual or disclosure information about us or the other parties to the agreements.

The agreements may contain representations and warranties by each of the parties to the applicable agreement. These representations and warranties have been made solely for the benefit of the other parties to the applicable agreement and:

- should not in all instances be treated as categorical statements of fact, but rather as a way of allocating the risk to one of the parties if those statements prove to be inaccurate;
- have been qualified by disclosures that were made to the other party in connection with the negotiation of the applicable agreement, which disclosures are not necessarily reflected in the agreement;
- may apply standards of materiality in a way that is different from what may be viewed as material to you or other investors; and
- were made only as of the date of the applicable agreement or such other date or dates as may be specified in the agreement and are subject to more recent developments.

Accordingly, these representations and warranties may not describe the actual state of affairs as of the date they were made or at any other time.

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SIGNATURES

CEMEX, S.A.B. de C.V. hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this annual report on its behalf.

CEMEX, S.A.B. de C.V.

By: /s/ Lorenzo H. Zambrano
Name: Lorenzo H. Zambrano
Title: Chief Executive Officer

Date: June 30, 2009

INDEX TO AUDITED CONSOLIDATED FINANCIAL STATEMENTS AND SCHEDULES

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
CEMEX, S.A.B. de C.V.:

We have audited the accompanying consolidated balance sheets of CEMEX, S.A.B. de C.V. and subsidiaries (the Company) as of December 31, 2008 and 2007, and the related consolidated income statements and consolidated statements of stockholders' equity for the years ended December 31, 2008, 2007 and 2006, and the consolidated statement of cash flows for the year ended December 31, 2008, and the consolidated statements of changes in financial position for the years ended December 31, 2007 and 2006. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States) and with auditing standards generally accepted in Mexico. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement and are prepared in accordance with Mexican Financial Reporting Standards. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of CEMEX, S.A.B. de C.V. and subsidiaries as of December 31, 2008 and 2007, and the results of their operations and the changes in their stockholders' equity for each of the years ended December 31, 2008, 2007 and 2006, their cash flows for the year ended December 31, 2008 and changes in their financial position for the years ended December 31, 2007 and 2006, in conformity with Mexican Financial Reporting Standards.

The accompanying consolidated financial statements have been prepared assuming that the Company will continue operating as a going concern. As discussed in notes 22 and 23 to the consolidated financial statements, the Company's ability to fulfill its short and long-term debt obligations that mature in 2009 is dependent on successfully completing their refinancing. This raises substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters are also described in note 22 to the consolidated financial statements. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

During 2008, accounting changes were adopted as disclosed in note 2 to the consolidated financial statements.

As discussed in note 2 to the consolidated financial statements, on January 1, 2008 the FRS B-2 "Statement of Cash Flows" came into effect superseding Bulletin B-12 "Statement of Changes in Financial Position"; accordingly, as of such date and in a prospective manner, the Company presents the consolidated statement of cash flows; therefore, such statement and the consolidated statements of changes in financial position are not presented for comparison purposes.

Mexican Financial Reporting Standards vary in certain significant respects from U.S. generally accepted accounting principles. Information relating to the nature and effect of such differences is presented in note 25 to the consolidated financial statements.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), CEMEX, S.A.B. de C.V.'s internal control over financial reporting as of December 31, 2008, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), and our report dated June 29, 2009 expressed an unqualified opinion on the effectiveness of the Company's internal control over financial reporting.

KPMG Cárdenas Dosal, S.C.

/s/ Celin Zorrilla Rizo
Monterrey, N.L., Mexico
June 29, 2009

INTERNAL CONTROL REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
CEMEX, S.A.B. de C.V.

We have audited CEMEX, S.A.B. de C.V. and subsidiaries' (the Company) internal control over financial reporting as of December 31, 2008, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). CEMEX, S.A.B. de C.V.'s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Annual Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed 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. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, CEMEX, S.A.B. de C.V. and subsidiaries maintained, in all material respects, effective internal control over financial reporting as of December 31, 2008, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)".

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) and with auditing standards generally accepted in Mexico, the consolidated balance sheets of CEMEX, S.A.B. de C.V. and subsidiaries as of December 31, 2008 and 2007, and the related consolidated income statements and consolidated statements of changes in stockholders' equity for the years ended December 31, 2008, 2007 and 2006, and the consolidated statement of cash flows for the year ended December 31, 2008 and the consolidated statements of changes in financial position for the years ended December 31, 2007 and 2006, and our report dated June 29, 2009 expressed an unqualified opinion on those consolidated financial statements and included an explanatory paragraph regarding the Company's ability to continue as a going concern.

KPMG Cárdenas Dosal, S.C.

/s/ Celin Zorrilla Rizo
Monterrey, N.L., México
June 29, 2009

CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Consolidated Balance Sheets
(Millions of Mexican pesos)

	Notes	December 31, 2008	2007
ASSETS			
CURRENT ASSETS			
Cash and investments	**3**	Ps 13,604	8,670
Trade receivables less allowance for doubtful accounts	**4**	18,276	20,719
Other accounts receivable	**5**	9,945	9,830
Inventories, net	**6**	22,358	19,631
Other current assets	**7**	4,012	2,394
Total current assets		68,195	61,244
NON-CURRENT ASSETS			
Investments in associates	**8A**	14,200	10,220
Other investments and non-current accounts receivable	**8B**	24,633	11,339
Property, machinery and equipment, net	**9**	281,858	262,189
Goodwill, intangible assets and deferred charges, net	**10**	234,736	197,322
Total non-current assets		555,427	481,070
TOTAL ASSETS		**Ps 623,622**	**542,314**
LIABILITIES AND STOCKHOLDERS' EQUITY			
CURRENT LIABILITIES			
Short-term debt including current maturities of long-term debt	**11A**	Ps 95,270	36,257
Other financial obligations	**11B and D**	3,462	—
Trade payables		22,543	23,660
Other accounts payable and accrued expenses	**12**	31,462	23,471
Total current liabilities		152,737	83,388
NON-CURRENT LIABILITIES			
Long-term debt	**11A**	162,824	180,654
Other financial obligations	**11B and D**	1,823	—
Employee benefits	**13**	6,788	7,650
Deferred income tax liability	**14B**	38,439	50,307
Other non-current liabilities	**12**	23,744	16,162
Total non-current liabilities		233,618	254,773
TOTAL LIABILITIES		**386,355**	**338,161**
STOCKHOLDERS' EQUITY			
Majority interest:			
Common stock	**15A**	4,117	4,115
Additional paid-in capital	**15A**	70,171	63,379
Other equity reserves	**15B**	28,730	(104,574)
Retained earnings	**15C**	85,396	174,140
Net income		2,278	26,108
Total majority interest		190,692	163,168
Minority interest and perpetual debentures	**15D**	46,575	40,985
TOTAL STOCKHOLDERS' EQUITY		**237,267**	**204,153**
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY		**Ps 623,622**	**542,314**

The accompanying notes are part of these consolidated financial statements.

CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Consolidated Income Statements

(Millions of Mexican pesos, except for earnings per share)

	Note	Years ended December 31, 2008	2007	2006
Net sales	2Q	Ps 243,201	236,669	213,767
Cost of sales	2R	(166,214)	(157,696)	(136,447)
Gross profit		**76,987**	**78,973**	**77,320**
Administrative and selling expenses		(33,783)	(33,120)	(28,588)
Distribution expenses		(15,320)	(13,405)	(14,227)
Total operating expenses	2R	(49,103)	(46,525)	(42,815)
Operating income		**27,884**	**32,448**	**34,505**
Other expenses, net	2T	(21,496)	(3,281)	(580)
Operating income after other expenses, net		**6,388**	**29,167**	**33,925**
Comprehensive financing result:				
Financial expense	11	(10,223)	(8,809)	(5,785)
Financial income		579	862	536
Results from financial instruments	11	(15,172)	2,387	(161)
Foreign exchange results	2E	(4,327)	(243)	238
Monetary position result	2A	418	6,890	4,667
Comprehensive financing result		(28,725)	1,087	(505)
Equity in income of associates		1,098	1,487	1,425
Income (loss) before income tax		**(21,239)**	**31,741**	**34,845**
Income tax	14	23,562	(4,796)	(5,698)
Consolidated net income		2,323	26,945	29,147
Minority interest net income		45	837	1,292
MAJORITY INTEREST NET INCOME		**Ps 2,278**	**26,108**	**27,855**
BASIC EARNINGS PER SHARE	18	**Ps 0.10**	**1.17**	**1.29**
DILUTED EARNINGS PER SHARE	18	**Ps 0.10**	**1.17**	**1.29**

The accompanying notes are part of these consolidated financial statements.

CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Consolidated Statement of Cash Flows

(Millions of Mexican pesos)

	Notes	Year ended December 31, 2008
OPERATING ACTIVITIES		
Consolidated net income		**Ps 2,278**
Non-cash items:		
Depreciation and amortization of assets	**9 and 10**	20,864
Impairment of assets	**6, 9 and 10**	21,125
Equity in income of associates	**8A**	(1,098)
Other expenses, net		(4,727)
Comprehensive financing result		28,725
Income taxes	**14**	(23,562)
Changes in working capital, excluding financial expense and income taxes		1,243
Net cash flows provided by operating activities before comprehensive financing results and income taxes		**44,848**
Financial expense paid in cash		(9,951)
Income taxes paid in cash		(3,625)
Net cash flows provided by operating activities		**31,272**
INVESTING ACTIVITIES		
Property, machinery and equipment, net	**9**	(21,248)
Disposal of subsidiaries and associates, net	**8A and 10**	10,845
Investment derivatives		2,856
Intangible assets and other deferred charges	**10**	(1,975)
Long-term assets, net		(2,838)
Others, net		586
Net cash flows used in investing activities		**(11,774)**
FINANCING ACTIVITIES		
Issuance of common stock	**15A**	6,794
Financing derivatives		(12,765)
Dividends paid	**15A**	(7,009)
Repayment of debt, net	**11A**	(3,710)
Issuance of perpetual debentures, net of interest paid	**15D**	(1,801)
Non-current liabilities, net		1,897
Net cash flows used in financing activities		**(16,594)**
Cash and investments conversion effect		2,030
Increase in cash and investments		4,934
Cash and investments at beginning of year		8,670
CASH AND INVESTMENTS AT END OF YEAR	**3**	**Ps 13,604**
Changes in working capital:		
Trade receivables, net		Ps 3,760
Other accounts receivable and other assets		762
Inventories		(170)
Trade payables		(2,882)
Other accounts payable and accrued expenses		(227)
		Ps 1,243

The accompanying notes are part of these consolidated financial statements.

CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Consolidated Statements of Changes in Financial Position
(Millions of Mexican pesos)

	Notes	Years ended December 31, 2007	2006
OPERATING ACTIVITIES			
Majority interest net income		**Ps 26,108**	**27,855**
Adjustments for items which are non cash:			
Depreciation of property, machinery and equipment	**9**	14,876	12,357
Amortization of intangible assets and deferred charges	**10**	2,790	1,604
Impairment of assets	**2K**	195	704
Pensions and other post-retirement benefits	**13**	995	915
Deferred income taxes	**14**	(427)	1,258
Deferred employees' statutory profit sharing		25	—
Equity in income of associates	**8A**	(1,487)	(1,425)
Minority interest		837	1,292
Net resources provided by operating activities		**43,912**	**44,560**
Changes in working capital, excluding acquisition effects:			
Trade receivables, net		2,837	3,495
Other accounts receivable and other assets		422	289
Inventories		(1,185)	(1,043)
Trade payables		(566)	2,995
Other accounts payable and accrued expenses		205	(2,451)
Net change in working capital		1,713	3,285
Net resources provided by operating activities		**45,625**	**47,845**
FINANCING ACTIVITIES			
Proceeds from debt (repayments), net, excluding debt assumed through business acquisitions		114,065	(31,235)
Decrease of treasury shares owned by subsidiaries		158	3,126
Dividends paid		(6,636)	(6,226)
Issuance of common stock under stock dividend elections and stock option programs		6,399	5,976
Issuance of perpetual debentures, net of interest paid	**15D**	16,981	14,490
Other financing activities, net		(618)	1,729
Net resources provided by (used in) financing activities		**130,349**	**(12,140)**
INVESTING ACTIVITIES			
Property, machinery and equipment, net	**9**	(21,779)	(16,067)
Disposal (acquisition) of subsidiaries and associates	**8A and 10**	(146,663)	2,958
Minority interest		(1,166)	(86)
Goodwill, intangible assets and other deferred charges	**10**	(1,408)	(2,629)
Other investments and monetary foreign currency effect		(14,782)	(8,938)
Resources used in investing activities		**(185,798)**	**(24,762)**
Increase (decrease) in cash and investments		(9,824)	10,943
Cash and investments at beginning of year		18,494	7,551
CASH AND INVESTMENTS AT END OF YEAR	**3**	**Ps 8,670**	**18,494**

The accompanying notes are part of these consolidated financial statements.

CEMEX, S.A.B. DE C.V. AND CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Statement of Changes in Stockholders' Equity

(Millions of Mexican pesos)

	Note	Common stock	Additional paid-in capital	Other equity reserves	Retained earnings	Total majority interest	Minority interest	Total stockholders' equity
Balance at December 31, 2005		**Ps 4,111**	**51,008**	**(90,882)**	**159,147**	**123,384**	**6,637**	**130,021**
Results from holding non-monetary assets	**15B**	—	—	(4,031)	—	(4,031)	—	(4,031)
Currency translation of foreign subsidiaries	**15B**	—	—	3,331	—	3,331	—	3,331
Hedge derivative financial instruments	**11**	—	—	148	—	148	—	148
Deferred income tax in equity	**14**	—	—	(641)	—	(641)	—	(641)
Net income		—	—	—	27,855	27,855	1,292	29,147
Comprehensive income for the period		—	—	(1,193)	27,855	26,662	1,292	27,954
Dividends (Ps0.27 pesos per share)	**15A**	—	—	—	(6,226)	(6,226)	—	(6,226)
Issuance of common stock	**15A**	2	5,974	—	—	5,976	—	5,976
Treasury shares owned by subsidiaries	**15**	—	—	983	—	983	—	983
Issuance and effects of perpetual debentures	**15D**	—	—	(152)	—	(152)	14,642	14,490
Changes and transactions related to minority interest	**15D**	—	—	—	—	—	(87)	(87)
Balance at December 31, 2006		**4,113**	**56,982**	**(91,244)**	**180,776**	**150,627**	**22,484**	**173,111**
Results from holding non-monetary assets	**15B**	—	—	(13,910)	—	(13,910)	—	(13,910)
Currency translation of foreign subsidiaries	**15B**	—	—	2,927	—	2,927	—	2,927
Hedge derivative financial instruments	**11**	—	—	(117)	—	(117)	—	(117)
Deferred income tax in equity	**14**	—	—	(427)	—	(427)	—	(427)
Net income		—	—	—	26,108	26,108	837	26,945
Comprehensive income for the period		—	—	(11,527)	26,108	14,581	837	15,418
Dividends (Ps0.28 pesos per share)	**15A**	—	—	—	(6,636)	(6,636)	—	(6,636)
Issuance of common stock	**15A**	2	6,397	—	—	6,399	—	6,399
Treasury shares owned by subsidiaries	**15**	—	—	44	—	44	—	44
Issuance and effects of perpetual debentures	**15D**	—	—	(1,847)	—	(1,847)	18,828	16,981
Changes and transactions related to minority interest	**15D**	—	—	—	—	—	(1,164)	(1,164)
Balance at December 31, 2007		**4,115**	**63,379**	**(104,574)**	**200,248**	**163,168**	**40,985**	**204,153**
Currency translation of foreign subsidiaries	**15B**	—	—	30,987	—	30,987	—	30,987
Hedge derivative financial instruments	**11**	—	—	(297)	—	(297)	—	(297)
Deferred income tax in equity	**14**	—	—	558	—	558	—	558
Net income		—	—	—	2,278	2,278	45	2,323
Comprehensive income for the period		—	—	31,248	2,278	33,526	45	33,571
Adoption of new Financial Reporting Standards	**2P**	—	—	104,640	(107,843)	(3,203)	—	(3,203)
Dividends (Ps0.29 pesos per share)	**15A**	—	—	—	(7,009)	(7,009)	—	(7,009)
Issuance of common stock	**15A**	2	6,792	—	—	6,794	—	6,794
Treasury shares owned by subsidiaries	**15**	—	—	12	—	12	—	12
Issuance and effects of perpetual debentures	**15D**	—	—	(2,596)	—	(2,596)	8,025	5,429
Changes and transactions related to minority interest	**15D**	—	—	—	—	—	(2,480)	(2,480)
Balance at December 31, 2008		**Ps 4,117**	**70,171**	**28,730**	**87,674**	**190,692**	**46,575**	**237,267**

The accompanying notes are part of these financial statements.

CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
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1. DESCRIPTION OF BUSINESS

CEMEX, S.A.B. de C.V. is a Mexican corporation, a holding company (parent) of entities which main activities are oriented to the construction industry, through the production, marketing, distribution and sale of cement, ready-mix concrete, aggregates and other construction materials. CEMEX is a public stock corporation with variable capital (S.A.B. de C.V.) organized under the laws of the United Mexican States, or Mexico.

CEMEX, S.A.B. de C.V. was founded in 1906 and was registered with the Mercantile Section of the Public Register of Property and Commerce in Monterrey, N.L., Mexico in 1920 for a period of 99 years. In 2002 this period was extended to the year 2100. The shares of CEMEX, S.A.B. de C.V. are listed on the Mexican Stock Exchange ("MSE") as Ordinary Participation Certificates ("CPOs"). Each CPO represents two series "A" shares and one series "B" share of common stock of CEMEX, S.A.B. de C.V. In addition, CEMEX, S.A.B. de C.V. shares are listed on the New York Stock Exchange ("NYSE") as American Depositary Shares or "ADSs" under the symbol "CX." Each ADS represents ten CPOs.

The terms "CEMEX, S.A.B. de C.V." or the "Parent Company" used in these accompanying notes to the financial statements refer to CEMEX, S.A.B. de C.V. without its consolidated subsidiaries. The terms the "Company" or "CEMEX" refer to CEMEX, S.A.B. de C.V. together with its consolidated subsidiaries. The consolidated financial statements were authorized for their issuance by the Company's management on February 6, 2009 and were approved by the stockholders' meeting on April 23, 2009.

2. SIGNIFICANT ACCOUNTING POLICIES

A) BASIS OF PRESENTATION AND DISCLOSURE

The Parent Company-only financial statements and their accompanying notes (Schedule I), complementary to the consolidated financial statements, are presented herein to comply with requirements to which the Company is subject as an independent legal entity.

The financial statements are prepared in accordance with Mexican Financial Reporting Standards ("MFRS") issued by the Mexican Board for Research and Development of Financial Reporting Standards ("CINIF"), which recognized the effects of inflation on the financial information until December 31, 2007. Changes in inflationary accounting effective beginning on January 1, 2008 are detailed below.

Inflationary accounting

Beginning January 1, 2008, according to new MFRS B-10, "Inflation Effects" ("MFRS B-10"), inflationary accounting will only be applied in a high-inflation environment, defined by the MFRS B-10 as existing when the cumulative inflation for the preceding three years equals or exceeds 26%. Until December 31, 2007, inflationary accounting was applied to all CEMEX subsidiaries regardless of the inflation level of their respective country. Beginning in 2008, only the financial statements of those subsidiaries whose functional currency corresponds to a country under high inflation will be restated to take account for inflation**.** Designation of a country as a high inflation environment takes place at the end of each year and inflation restatement is applied prospectively. As of December 31, 2007, except for Venezuela and Costa Rica, all other CEMEX subsidiaries operated in low-inflation environments; therefore, in these cases restatement of their financial statements to take account of inflation was suspended starting on January 1, 2008.

Beginning in 2008, MFRS B-10 eliminates the restatement of the financial statements for the period as well as the comparative financial statements for prior periods into constant amounts as of the most recent balance sheet date. Beginning in 2008, the amounts in the income statement, the statement of cash flows and the statement of changes in stockholders' equity are presented in nominal pesos. The amounts of the financial statements for prior periods are presented in constant pesos as of December 31, 2007, the last date in which inflationary accounting was applied.

The restatement adjustments as of the date that the inflationary accounting was discontinued should prevail as part of the carrying amounts. When moving from a low-inflation to a high-inflation environment, the initial restatement factor should consider the cumulative inflation since the last time inflationary accounting was applied.

Upon adoption of new MFRS B-10, on January 1, 2008, the accumulated result for holding non-monetary assets as of December 31, 2007, was reclassified from "Deficit in equity restatement" (note 15B) to "Retained earnings," representing a decrease in this caption of approximately Ps97,722.

Statement of cash flows

Beginning in 2008, the new MFRS B-2, "Statement of cash flows" ("MFRS B-2"), establishes the incorporation of a new cash flow statement, which presents cash inflows and outflows in nominal currency as part of the basic financial statements, replacing the statement of changes in financial position, which included inflation effects and foreign exchange effects not realized. Under MFRS B-2, only the cash flow statement is presented for the period 2008 and the statement of changes in financial position for the years ended December 31, 2007 and 2006, originally reported as of each year, are presented in constant pesos as of December 31, 2007.

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Definition of terms

When reference is made to "pesos" or "Ps," it means Mexican pesos. Except when specific references are made to "earnings per share" and "prices per share," the amounts in these notes are stated in millions of pesos. When reference is made to "US$" or "dollars", it means dollars of the United States of America ("United States" or "U.S.A."). When reference is made to "£" or "pounds", it means British pounds sterling. When reference is made to "€" or "Euros", it means millions of the currency in circulation in a significant number of European Union countries.

When it is deemed relevant, certain amounts presented in the notes to the financial statements include between parentheses a translation into dollars, into pesos, or both, as applicable. These translations are informative data and should not be construed as representations that the amounts in pesos actually represent those dollar amounts or could be converted into dollars at the rate indicated. The translation procedures used are detailed as follows:

- When the amount between parentheses is in dollars, the amount was originated in pesos or other currencies. In 2008, such dollar translations were calculated using the closing exchange rate of Ps13.74 pesos per dollar for balance sheet amounts and using the average exchange rate of Ps11.21 pesos per dollar for the income statement amounts. For 2007 and 2006, the constant peso amounts as of December 31, 2007, were translated using the closing exchange rate as of December 31, 2007 for balance sheet and income statement accounts. For 2008, translation to pesos was calculated using the closing exchange rate of Ps13.74 pesos per dollar for balance sheet accounts and using the average exchange rate of Ps11.21 pesos per dollar for income statement accounts. In 2007 and 2006, translation to pesos was calculated using the closing exchange rate at the end of each year and were restated to constant pesos as of December 31, 2007 for balance sheet and income statement accounts.
- When the amounts between parentheses are the peso and the dollar, it means the disclosed amount was originated in other currencies. In 2008, foreign currency amounts were translated into dollars using the closing exchange rates at year-end and translated into pesos using the closing exchange rate of Ps13.74 pesos per dollar. In 2007 and 2006, amounts in foreign currency were converted into dollars using the closing exchange rates for each year; such dollars were converted into pesos using the closing exchange rate of each year and were restated into constant pesos as of December 31, 2007.

Income statement

New MFRS B-3, "Income Statement," effective beginning January 1, 2007, establishes presentation and disclosure requirements for the captions that are included in the income statement. CEMEX's income statement for 2006 was reclassified to comply with the presentation rules required in 2007.

B) RESTATEMENT OF COMPARATIVE FINANCIAL STATEMENTS

Until December 31, 2007, the restatement factors applied to the consolidated financial statements of prior periods were calculated using the weighted average inflation and the fluctuation in the exchange rate of each country in which the Company operates relative to the Mexican peso. Nevertheless, in compliance with Mexican regulation, common stock and additional paid-in capital are restated by Mexican inflation; the weighted average inflation factor is used for all other restatement adjustments to stockholders' equity. The related inflation adjustment is included within "Other equity reserves" in the balance sheet.

	2006 to 2007	2005 to 2006
Weighted average restatement factor	1.0846	1.0902
Mexican inflation restatement factor	1.0398	1.0408

C) PRINCIPLES OF CONSOLIDATION

The consolidated financial statements include those of CEMEX, S.A.B. de C.V. and the entities in which the Parent Company holds, directly or through subsidiaries, more than 50% of their common stock and/or has control. Control exists when CEMEX has the power, directly or indirectly, to govern the administrative, financial and operating policies of an entity in order to obtain benefits from its activities.

The financial statements of joint ventures, which are those entities in which CEMEX and third-party investors have agreed to exercise joint control, are consolidated through the proportional integration method considering CEMEX's interest in the results of operations, assets and liabilities of such entities, based on International Accounting Standard No. 31, "Interests in Joint Ventures." CEMEX applies the full consolidation or the equity method, as applicable, for those joint ventures in which one of the venture partners controls the entity's administrative, financial and operating policies.

Investments in associates are accounted for by the equity method, when CEMEX holds between 20% and 50% and has significant influence unless it is proven that CEMEX has significant influence with a lower percentage. Under the equity method, after acquisition, the investment's original cost is adjusted for the proportional interest of the holding company in the associate's equity and earnings, considering the effects of inflation.

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D) USE OF ESTIMATES

The preparation of financial statements in accordance with MFRS requires management to make estimates and assumptions that affect reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, as well as the reported amounts of revenues and expenses during the period. These assumptions are reviewed on an ongoing basis using available information. Actual results could differ from these estimates.

The main captions subject to estimates and assumptions include, among others, long-lived assets, allowances for doubtful accounts, inventories, deferred income tax assets, the fair market values of financial instruments and the assets and liabilities related to employee benefits.

E) FOREIGN CURRENCY TRANSACTIONS AND TRANSLATION OF FOREIGN CURRENCY FINANCIAL STATEMENTS

Transactions denominated in foreign currencies are recorded at the exchange rates prevailing on the dates of their execution. Monetary assets and liabilities denominated in foreign currencies are translated into pesos at the exchange rates prevailing at the balance sheet date, and the resulting foreign exchange fluctuations are recognized in earnings, except for the exchange fluctuations arising from: 1) foreign currency indebtedness directly related to the acquisition of foreign entities and 2) fluctuations associated with related parties' balances denominated in foreign currency that are of a long-term investment nature. These fluctuations are recorded against stockholders' equity, as part of the foreign currency translation adjustment of foreign subsidiaries (note 15B).

Starting in 2008, the financial statements of foreign subsidiaries, which are determined using the functional currency applicable in each country, are translated to pesos at the closing exchange rate for balance sheet accounts and at the average exchange rate of each month for income statement accounts. The corresponding translation adjustment is included within "Other equity reserves" in the balance sheet. Until December 31, 2007, the financial statements of foreign subsidiaries were restated in their functional currency based on the subsidiary country's inflation rate and subsequently translated by using the foreign exchange rate at the end of the reporting period for balance sheet and income statement accounts.

The closing exchange rates used to translate the financial statements of the Company's main foreign subsidiaries as of December 31, 2008 for balance sheet accounts, and in 2007 and 2006 for balance sheet and income statement accounts, and in 2008 the approximate average exchange rates for income statement accounts are the following:

	2008			
Currency	Closing	Average	2007	2006
United States Dollars	13.7400	11.2100	10.9200	10.8000
Euro	19.2060	16.4394	15.9323	14.2612
British Pound Sterling	20.0496	20.4413	21.6926	21.1557
Colombian Peso	0.0061	0.0056	0.0054	0.0048
Venezuelan Bolivar	6.3907	4.8738	5.1000	5.0000
Egyptian Pound	2.4889	2.0578	1.9802	1.8888
Philippine Peso	0.2891	0.2509	0.2645	0.2203

The financial statements of foreign subsidiaries are initially translated from their functional currencies into dollars and subsequently into pesos. Therefore, the foreign exchange rates presented in the table above between the functional currency and the peso represent the exchange rates resulting from this methodology. The peso to U.S. dollar exchange rate used by CEMEX is an average of free market rates available to settle its foreign currency transactions. No significant differences exist, in any case, between the foreign exchange rates used by CEMEX and those exchange rates published by the Mexican Central Bank.

F) CASH AND INVESTMENTS (note 3)

The balance in this caption is comprised of available amounts of cash and cash equivalents, represented by investments held for trading purposes, which are easily convertible into cash and have maturities of less than three months from the investment date. Those investments in fixed-income securities are recorded at cost plus accrued interest. Investments in marketable securities, such as shares of public companies, are recorded at market value. Gains or losses resulting from changes in market values, accrued interest and the effects of inflation arising from these investments are included in the income statements as part of the Comprehensive Financing Result.

The balance in cash and investment accounts excludes amounts deposited in margin accounts in financial institutions that guarantee CEMEX obligations incurred through derivative financial instruments. When contracts of such instruments contain provisions for net settlement, these margin accounts are offset against the liabilities that CEMEX has with its counterparts (note 11B).

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G) INVENTORIES (note 6)

Starting in 2008, based on the changes to MFRS B-10 (note 2A), inventories are valued using the lower between production cost and market value. Until 2007, inventories were valued using the lower between their replacement cost and market value. Production cost may correspond to the latest purchase price, the average price of the last purchases or the last production cost. CEMEX analyzes its inventory balances to determine if, as a result of internal events, such as physical damage, or external events, such as technological changes or market conditions, certain portions of such balances have become obsolete or impaired. When an impairment situation arises, the inventory balance is adjusted to its net realizable value, whereas, if an obsolescence situation occurs, the inventory obsolescence reserve is increased. In both cases, these adjustments are recognized against the results of the period.

H) OTHER INVESTMENTS AND NON-CURRENT RECEIVABLES (note 8B)

Other investments and non-current accounts receivable include CEMEX's collection rights with maturities of more than twelve months as of the balance sheet date. Non-current assets resulting from the valuation of derivative financial instruments, as well as investments in private funds and other investments are recognized at their estimated fair value as of the balance sheet date, and their changes in valuation are included in the income statement as part of the Comprehensive Financing Result.

I) PROPERTY, MACHINERY AND EQUIPMENT (note 9)

Property, machinery and equipment are recognized at their acquisition or construction cost and amounts are restated considering guidelines from MFRS B-10 (note 2A). Starting on January 1, 2008, when inflationary accounting is applied only during periods of high inflation, such assets should be restated using the factors derived from the general price index of the countries where the assets are held. Until December 31, 2007, property, machinery and equipment were presented at their restated value, using the inflation index of each country, except for those foreign assets which are restated using the inflation index of the fixed assets' origin country and the variation in the foreign exchange rate between the country of origin currency and the functional currency of the country holding the asset.

Depreciation of fixed assets is recognized within "Cost of sales" and "Administrative and selling expenses," depending on the utilization of the respective assets, and is calculated using the straight-line method over the estimated useful lives of the assets, except for mineral reserves, which are depleted using the units-of-production method. The maximum average useful lives by category of assets are as follows:

	Years
Administrative buildings	32
Industrial buildings	26
Machinery and equipment in plant	19
Ready-mix trucks and motor vehicles	8
Office equipment and other assets	7

For the years ended December 31, 2008, 2007 and 2006, CEMEX capitalized, as part of the historical cost of fixed assets, the Comprehensive Financing Result, which includes interest expense, and until December 31, 2007 or when inflationary accounting is applied during periods of high inflation, the monetary position result, arising from indebtedness incurred during the construction or installation period of significant fixed assets, considering the average balance of investments in process for the period, since indebtedness is not specifically associated with projects.

Costs incurred in respect of operating fixed assets that result in future economic benefits, such as an extension in their useful lives, an increase in their production capacity or in safety, as well as those costs incurred to mitigate or prevent environmental damage, are capitalized as part of the carrying amount of the related assets. These capitalized costs are depreciated over the remaining useful lives of the related fixed assets. Other costs, including periodic maintenance on fixed assets, are expensed as incurred.

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J) BUSINESS COMBINATIONS, GOODWILL, OTHER INTANGIBLE ASSETS AND DEFERRED CHARGES (note 10)

In accordance with MFRS B-7, "Business Combinations," CEMEX applies the following accounting principles: a) adoption of the purchase method as the sole recognition alternative; b) allocation of the purchase price to all assets acquired and liabilities assumed based on their estimated fair values as of the acquisition date; c) intangible assets acquired are identified and recognized at fair value; d) any unallocated portion of the purchase price is recognized as goodwill; and e) goodwill is not amortized and is subject to periodic impairment tests (note 2K).

CEMEX capitalizes intangible assets acquired, as well as costs incurred in the development of intangible assets, when future economic benefits associated are identified and there is evidence of control over such benefits. Intangible assets are presented at their acquisition or development cost, and are restated during high inflation periods to comply with MFRS B-10 (note 2A). Such assets are classified as having a definite or indefinite life; the latter are not amortized since the period cannot be accurately established in which the benefits associated with such intangibles will terminate. Amortization of intangible assets of definite life is calculated under the straight-line method.

Direct costs incurred in debt issuances or borrowings are capitalized and amortized as part of the effective interest rate of each transaction over its maturity. These costs include commissions and professional fees. Direct costs incurred in the development stage of computer software for internal use are capitalized and amortized through the operating results over the useful life of the software, which is approximately 5 years.

Pre-operational expenses are recognized in the income statement as they are incurred. Costs associated with research and development activities ("R&D"), performed by CEMEX to create new products and services, as well as to develop processes, equipment and methods to optimize operational efficiency and reduce costs, are recognized in the operating results as incurred. The Technology and Energy departments in CEMEX undertake all significant R&D activities as part of their daily routines. In 2008, 2007 and 2006, total combined expenses of these departments were approximately Ps348 (US$31), Ps437 (US$40) and Ps503 (US$46), respectively.

K) IMPAIRMENT OF LONG LIVED ASSETS (notes 9 and 10)

Property, machinery and equipment, intangible assets of definite life and other investments

According to MFRS C-15, "Impairment and disposal of long-lived assets" ("MFRS C-15"), property, machinery and equipment, intangible assets of definite life and other investments are tested for impairment upon the occurrence of factors such as the occurrence of a significant adverse event, changes in the operating environment in which CEMEX operates, changes in projected use or in technology, as well as expectations of lower operating results for each cash generating unit, in order to determine whether their book value may not be recovered, in which case an impairment loss is recorded in the income statement, within other expenses, net, for the period when such determination is made. The impairment loss results from the excess of the carrying amount over the net present value of estimated cash flows related to such assets.

Goodwill and intangible assets of indefinite life

Goodwill and other intangible assets of indefinite life are tested for impairment when needed or at least once a year, during the last quarter of the period, by determining the value in use of the reporting units, which consists in the discounted amount of estimated future cash flows to be generated by the reporting units to which those assets relate. A reporting unit refers to a group of one or more cash generating units. An impairment loss is recognized if the value in use is lower than the net book value of the reporting unit. CEMEX determines the discounted amount of estimated future cash flows over a period of 5 years, unless a longer period is justified in a specific country considering its economic cycle and the situation of the industry.

The geographic segments reported by CEMEX (note 17), each integrated by multiple cash generating units, also represent the reporting units for purposes of testing goodwill for impairment. CEMEX concluded that the operating components that integrate the reported segment have similar economic characteristics, by considering: a) that the reported segments are the level used by CEMEX to organize and evaluate its activities in the internal information system; b) the homogeneous nature of the items produced and traded in each operative component, which are all used by the construction industry; c) the vertical integration in the value chain of the products comprising each component; d) the type of clients, which are substantially similar in all components; e) the operative integration among components; and f) that the compensation system of a specific country is based on the consolidated results of the geographic segment and not on the particular results of the components.

Impairment tests are significantly sensitive, among other factors, to the estimation of future prices of CEMEX's products, the development of operating expenses, local and international economic trends in the construction industry, as well as the long-term growth expectations in the different markets. Likewise, the discount rates and the rates of growth in perpetuity used have an effect on such impairment tests. CEMEX uses specific discount rates for each reporting unit, which considers the weighted average cost of capital of each country.

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L) DERIVATIVE FINANCIAL INSTRUMENTS (note 11B, C and D)

In compliance with the guidelines established by its Risk Management Committee, CEMEX uses derivative financial instruments ("derivative instruments"), in order to change the risk profile associated with changes in interest rates, the exchange rates of debt, or both, as an alternative source of financing, and as hedges of: (i) highly probable forecasted transactions, (ii) the Company's net investments in foreign subsidiaries, and (iii) executive stock option programs.

CEMEX recognizes derivative financial instruments as assets or liabilities in the balance sheet at their estimated fair value, and the changes in such fair values are recognized in the income statement within "Results from financial instruments" for the period in which they occur, except for hedges of cash flows and the net investment in foreign subsidiaries. Some derivative instruments have been designated as hedges. The accounting rules applied to specific derivative instruments are as follows:

a) Changes in the fair value of interest rate swaps to exchange floating rates for fixed rates, designated and that are effective as hedges of the variability in the cash flows associated with the interest expense of a portion of the debt, as well as instruments negotiated to hedge the interest rates at which forecasted debt is expected to be contracted or existing debt renegotiated, are recognized in stockholders' equity. These effects are reclassified to earnings as the interest expense of the related debt is accrued, or in the case of forecasted transactions, once the related debt has been negotiated and recognized in the balance sheet.

b) Changes in the fair value of foreign currency forwards, designated as hedges of a portion of CEMEX's net investment in foreign subsidiaries, whose functional currency is different from the peso, are recognized in stockholders' equity, offsetting the foreign currency translation result (notes 2E and 15B). The reversal of the cumulative effect in stockholders' equity to earnings would take place upon disposal of the foreign investment. When the hedging condition for these instruments is suspended, the subsequent valuation effects are recognized prospectively in the income statement as of the suspension date.

c) Changes in the fair value of forward contracts in the Company's own shares are recognized in the income statement as incurred, including those contracts designated as hedges of executive stock option programs. These effects are recognized as part of the costs related to such programs.

d) Changes in the fair value of foreign currency options and forward contracts, negotiated to hedge an underlying firm commitment, are recognized in stockholders' equity and are reclassified to earnings once the firm commitment takes place, as the effects from the hedged item are recognized in the income statement. With respect to a foreign currency hedge associated with a firm commitment for the acquisition of a net investment in a foreign country, the accumulated effect in stockholders' equity is reclassified to the income statement when the purchase occurs.

e) Changes in fair value generated by interest rate swaps, cross currency swaps ("CCS") and other derivative instruments not designated as cash flow hedges are recognized in the income statement as they occur. The valuation effects of CCS are recognized and presented separately from the related short-term and long-term debt in the balance sheet; consequently, debt associated with the CCS is presented in the currencies originally negotiated.

Accrued interest generated by interest rate swaps and CCS is recognized as financial expense, adjusting the effective interest rate of the related debt. Accrued interest from other hedging derivative instruments is recorded within the same caption when the effects of the primary instrument subject to the hedging relation are recognized.

CEMEX reviews its different contracts to identify the existence of embedded derivatives. Identified embedded derivatives are analyzed to determine if, according to MFRS, they need to be separated from the host contract and recognized in the balance sheet as assets or liabilities at their estimated fair value, with changes in valuation recognized in the results for the period in which they occur, except when the embedded derivative is designated in a cash flow hedge transaction. In that case, the effective portion of the embedded derivative is temporarily recognized in other comprehensive income and is reclassified to earnings jointly with the effects of the underlying hedged item. The ineffective portion is immediately recognized in earnings.

Derivative instruments are negotiated with institutions with significant financial capacity; therefore, CEMEX considers the risk of non-performance of the obligations agreed to by such counterparties to be minimal. The estimated fair value represents the amount at which a financial asset could be bought or sold, or a financial liability could be extinguished, between willing parties in an arm's length transaction. Occasionally, there is a reference market that provides the estimated fair value; in the absence of such market, such value is determined by the net present value of projected cash flows or through mathematical valuation models. The estimated fair values of derivative instruments determined by CEMEX and used for valuation, recognition and disclosure purposes in the financial statements and their notes, are supported by the confirmations of these values received from the financial counterparts, which act as valuation agents in these transactions.

M) PROVISIONS

CEMEX recognizes provisions when it has a legal or constructive obligation resulting from past events, whose resolution would imply cash outflows or the delivery of other resources owned by the Company.

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Restructuring (note 12)

CEMEX recognizes a provision for restructuring costs only when the restructuring plans have been properly finalized and authorized by CEMEX's management, and have been communicated to the third parties involved and/or affected by the restructuring prior to the balance sheet date. These provisions may include costs not associated with CEMEX's ongoing activities.

Asset retirement obligations (note 12)

CEMEX recognizes a liability for unavoidable obligations, legal or constructive, to restore operating sites upon retirement of tangible long-lived assets at the end of their useful lives. These liabilities represent the net present value of estimated future cash flows to be incurred in the restoration process, and they are initially recognized against the related assets' book value. The increase to the assets' book value is depreciated during its remaining useful life. The increase in the liability related to the passage of time, is charged to the income statement. Adjustments to the liability for changes in the estimated cash flows or the estimated disbursement period are recognized against fixed assets, and depreciation is modified prospectively.

Asset retirement obligations are related mainly to future costs of demolition, cleaning and reforestation, so that the sites for the extraction of raw materials, the maritime terminals and other production sites are left in acceptable condition at the end of their operation.

Costs related to remediation of the environment (notes 12 and 20)

CEMEX recognizes a provision when it is probable that an environmental remediation liability exists and that it will represent an outflow of resources. The provision represents the estimated future cost of remediation. Provisions for environmental remediation costs are recognized at their nominal value when the time schedule for the disbursement is not clear, or when the economic effect for the passage of time is not significant; otherwise, such provisions are recognized at their discounted values. Reimbursements from insurance companies are recognized as assets only when their recovery is practically certain. In that case, such insurance reimbursement assets are not offset against the provision for remediation costs.

Contingencies and commitments (notes 19 and 20)

Obligations or losses related to contingencies, are recognized as liabilities in the balance sheet when present obligations exist resulting from past events that are expected to result in an outflow of resources and the amount can be measured reliably. Otherwise, a qualitative disclosure is included in the notes to the financial statements. The effects of long-term commitments established with third parties, such as supply contracts with suppliers or customers, are recognized in the financial statements on the incurred or accrued basis, after taking into consideration the substance of the agreements. Relevant commitments are disclosed in the notes to the financial statements. The Company does not recognize contingent revenues, income or assets.

N) EMPLOYEE BENEFITS (note 13)

Employees' statutory profit sharing

Under new MFRS D-3, "Employee Benefits" ("MFRS D-3"), beginning on January 1, 2008, current and deferred employees' statutory profit sharing ("ESPS") is not considered an element of income taxes. Likewise, deferred ESPS shall be calculated using the assets and liabilities method, applying the ESPS rate to the total temporary differences resulting from comparing the book values and the taxable values for ESPS purposes of assets and liabilities according to applicable legislation. Until December 31, 2007, deferred ESPS was determined considering temporary differences of a non-recurring nature, arising from the reconciliation of net income and the taxable income of the period for ESPS purposes. The cumulative initial effect for the adoption of new MFRS D-3 as of January 1, 2008, represented an expense of approximately Ps2,283, which was included within "Retained earnings." For the years ended December 31, 2008, 2007 and 2006, current and deferred ESPS represented an income of approximately Ps2,283 and expenses of approximately Ps246 and Ps180, respectively. Current and deferred ESPS is presented within "Other expenses, net."

Defined contribution plans

The costs of defined contribution pension plans are recognized in the operating results as they are incurred. Liabilities arising from such plans are periodically settled through cash transfers to the employees' retirement accounts, without generating future obligations.

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Defined benefit plans, other post-retirement benefits and termination benefits

CEMEX recognizes the costs associated with employees' benefits for: a) defined benefit pension plans; b) other post-retirement benefits, basically comprised of health care benefits, life insurance and seniority premiums, granted pursuant to applicable law or by Company grant; and c) termination benefits, not associated with a restructuring event, which mainly represent ordinary severance payments by law. These costs are recognized in the operating results, as services are rendered, based on actuarial estimations of the benefits' present value. The actuarial assumptions upon which the Company's employee benefit liabilities are determined consider the use of real rates (nominal rates discounted by inflation).

The prior service cost, the transition liability as well as a portion of the actuarial gains and losses ("actuarial results"), which exceeds a corridor of the greater of 10% of the fair value of any plan assets and of 10% of the present value of the defined benefit obligation, are amortized to the operating results over the employees' estimated active service life. Considering the transition rules of new MFRS D-3, beginning January 1, 2008, the actuarial results, prior services and the transition liability recognized as of December 31, 2007, should be amortized in the income statement in a maximum period of five years. The net cost of the period for the year ended December 31, 2008 includes a portion of this transition amortization.

For certain pension plans, irrevocable trust funds have been created to cover future benefit payments. These assets are valued at their estimated fair value at the balance sheet date.

The net period cost recognized in the operating results includes: a) the increase in the obligation resulting from additional benefits earned by employees during the period; b) interest cost, which results from the increase in the liability by the passage of time; c) the amortization of the actuarial gains and losses, prior service cost and transition liability; and d) the expected return on plan assets for the period. Beginning in 2008, the excess of amortization expense in the net periodic pension cost resulting from the transition rule is recognized within "Other expenses, net."

O) INCOME TAXES (note 14)

The effects reflected in the income statements for income taxes include the amounts incurred during the period as well as the amounts of deferred income taxes, in both cases determined according to the income tax law applicable to each subsidiary. According to MFRS D-4, "Accounting for Income Taxes" ("MFRS D-4"), income taxes incurred during the period are presented in the income statement. Consolidated deferred income taxes represent the addition of the amounts determined in each subsidiary under the assets and liabilities method, by applying the enacted statutory income tax rate to the total temporary differences resulting from comparing the book and taxable values of assets and liabilities, taking into account and subject to a recoverability analysis, tax loss carryforwards as well as other recoverable taxes and tax credits. According to MFRS, all items charged or credited directly in stockholders' equity are recognized net of their deferred income tax effects. The effect of a change in enacted statutory tax rates is recognized in the income statement for the period in which the change occurs and is officially enacted.

Management analyzes projections of future taxable income in each consolidated entity to evaluate whether it will obtain the tax benefits associated with the deferred income tax assets and tax loss carryforwards prior to their expiration. When it is determined that future operations would not generate sufficient taxable income, or that tax strategies are no longer viable, the valuation allowance on such assets would be increased against the income statement.

On January 1, 2008, CEMEX adopted the new MFRS D-4, which: a) reclassified current and deferred ESPS to MFRS D-3, "Employee Benefits;" b) in connection with recoverable taxes paid against income tax of future periods, amounts should be recognized as a deferred tax asset only when it is probable that such tax will be recovered against the future income tax; and c) required the cumulative effect at December 31, 2007 for the initial recognition of deferred income tax effects from the adoption of the assets and liabilities method to be reclassified from "Other equity reserves" to "Retained earnings" (note 2P); and d) eliminated the exception not to calculate deferred income tax for investments in associates. CEMEX recognized the cumulative initial effect as of January 1, 2008 within retained earnings in the consolidated stockholders' equity.

P) STOCKHOLDERS' EQUITY

Based on the new MFRS B-10 (note 2A), beginning on January 1, 2008, inflationary accounting was suspended considering that Mexico and the main countries in which CEMEX has operations have low-inflation environments. Until December 31, 2007, stockholders' equity was restated using the restatement factors that considered the weighted averaged inflation and the changes between the exchange rates of the countries in which CEMEX operates and the Mexican peso. In compliance with Mexican regulations, common stock and additional paid-in capital were restated using the Mexican inflation factor; the other stockholders' equity items were restated using the weighted average restatement factor. The corresponding inflation adjustment was included within "Other equity reserves" in the balance sheet.

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Common stock and additional paid-in capital (note 15A)

Balances of common stock and additional paid-in capital represent the value of stockholders' contributions.

Other equity reserves (note 15B)

Other equity reserves groups the cumulative effects of items and transactions that are, temporarily or permanently, recognized directly to stockholders' equity. This caption includes the elements of "Comprehensive income for the period," which is presented in the statement of changes in stockholders' equity. Comprehensive income includes, in addition to net income, certain changes in stockholders' equity during a period, not resulting from investments by owners and distributions to owners.

The most important items within "Other equity reserves" are as follows:

Items of comprehensive income within "Other equity reserves:"

- Results from holding non-monetary assets included, until December 31, 2007, the revaluation effect during high inflation periods of non-monetary assets in each country, using specific restatement factors that differ from the weighted average consolidated inflation;
- Currency translation effects from the translation of foreign subsidiaries' financial statements, net of: a) changes in the estimated fair value of foreign currency forward contracts, designated as hedges of a portion of CEMEX's net investment in foreign subsidiaries whose functional currency is different from the peso (note 2L); b) foreign currency indebtedness directly related to the acquisition of foreign subsidiaries; and c) foreign currency related parties balances that are of a long-term investment nature (note 2E);
- The effective portion of the valuation and liquidation effects from derivative instruments under cash flow hedging relationships, which are recorded temporarily in stockholders' equity (note 2L); and
- The deferred income tax arising from items whose effects are directly recognized in stockholders' equity.

Items of "Other equity reserves" not included in comprehensive income:

- Effects related to majority stockholders' equity for changes or transactions affecting minority interest stockholders in CEMEX's consolidated subsidiaries;
- Effects attributable to majority stockholders' equity for financial instruments issued by consolidated subsidiaries that qualify for accounting purposes as equity instruments, such as the interest expense paid by perpetual debentures;
- This caption includes the adjustments related to the cancellation of the Company's own shares held in the Parent Company's treasury, as well as those held by consolidated subsidiaries; and
- Until December 31, 2007, included the cumulative initial effect of deferred income taxes arising from the adoption of the assets and liabilities method.

Retained earnings (note 15C)

Represents the cumulative net results of prior accounting periods, net of dividends declared to stockholders, and includes charges for the adoption of new MFRS during the period that decreased retained earnings as follows: a) the reclassification of the accumulated results from holding non-monetary assets (note 2A) for Ps97,722; b) the reclassification of the cumulative initial deferred income tax effect (note 2O) for Ps6,918; c) the cumulative initial deferred income tax recognition in investments in associates for Ps920; and d) the cumulative initial deferred income tax recognition based on the assets and liabilities method (note 2N) for Ps2,283.

Minority interest and perpetual debentures (note 15D)

Represents the share of minority stockholders in the results and equity of consolidated subsidiaries. Likewise, this caption includes the notional amount of financial instruments (perpetual notes) issued by consolidated entities that qualify as equity instruments because there is: a) no contractual obligation to deliver cash or another financial asset; b) no predefined maturity date; and c) a unilateral option to defer interest payments or preferred dividends for indeterminate periods.

Q) REVENUE RECOGNITION

CEMEX's consolidated net sales represent the value, before tax on sales, of products and services sold by consolidated subsidiaries as a result of ordinary activities, after the elimination of transactions between related parties. Revenues are quantified at the fair value of the consideration received or receivable, decreased by any trade discounts or volume rebates granted to customers.

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Revenue from the sale of goods and services is recognized upon shipment of products or through goods delivered or services rendered to customers, when there is no condition or uncertainty implying a reversal thereof, and they have assumed the risk of loss. Income generated from trading activities, in which CEMEX acquires finished goods from a third-party and subsequently sells the goods to another third-party, are recognized on a gross basis, considering that CEMEX assumes the total risk of property on the goods purchased, not acting as agent or commissioner. Aligned to the abovementioned, costs and expenses incurred in trading activities are recognized within either cost of sales or administrative, selling and distribution expenses, as appropriate.

R) COST OF SALES, ADMINISTRATIVE EXPENSES AND SELLING AND DISTRIBUTION EXPENSES

In 2008, cost of sales represents the production cost. Until 2007, cost of sales represented the lower of the replacement or production cost of inventories at the time of sale. Such cost of sales includes depreciation, amortization and depletion of assets involved in production, expenses related to storage in productive plants and freight of raw material between plants. Cost of sales excludes expenses related to personnel, equipment and services involved in sale activities, storage of product in points of sales as well as freight of finished product between plants and points of sale, which are recognized within administrative and selling expenses. Likewise, cost of sales excludes freight expenses between points of sale and customers' facilities, which are recognized within distribution expenses.

The "Administrative and selling expenses" line item in the income statements includes CEMEX's selling expenses which are comprised of the direct costs related to CEMEX's selling force, transfer costs from CEMEX's producing plants to its selling points, as well as costs related to warehousing of products at the selling points. For the years ended December 31, 2008, 2007 and 2006, selling expenses amounted to Ps11,441, Ps10,667 and Ps9,055, respectively. Distribution expenses refer to freight of finished products between points of sale and the customers' facilities.

S) MONETARY POSITION RESULT

The monetary position result, which represents the gain or loss from holding monetary assets and liabilities in inflationary environments, is determined by applying the inflation rate of the country of each subsidiary to its net monetary position (difference between monetary assets and liabilities). Until December 31, 2007, this effect was determined for all subsidiaries without considering the inflation level.

T) OTHER EXPENSES, NET

The caption "Other expenses, net" in the income statements consists primarily of revenues and expenses derived from transactions or events not directly related to CEMEX's main activity, or which are of unusual or non-recurring nature. The most significant items included under this caption in 2008, 2007 and 2006 are the following:

	2008	2007	2006
Impairment losses (notes 6, 9 and 10)	Ps(21,125)	(195)	(704)
Restructuring costs (note 12)	(3,141)	(1,158)	(542)
Non-operative donations	(174)	(367)	(364)
Current and deferred ESPS (note 2N)	2,283	(246)	(180)
Anti-dumping duties	19	(32)	1,839
Results from the sale of assets and others, net	642	(1,283)	(629)
	Ps(21,496)	(3,281)	(580)

U) EXECUTIVE STOCK OPTION PROGRAMS (note 16)

CEMEX applies the International Financial Reporting Standard No. 2, "Share-based Payment" ("IFRS 2") for its stock option programs. Under IFRS 2, options granted to executives are defined as equity instruments, in which services received from employees are settled through the delivery of shares; or as liability instruments, in which the Company incurs a liability by committing to pay the intrinsic value of the option as of the exercise date. The cost of equity instruments represents their estimated fair value at the date of grant and is recognized in earnings during the period in which the exercise rights of the employees become vested. In respect to liability instruments, these instruments should be valued at their estimated fair value at each reporting date, recognizing the changes in valuation through the income statement. CEMEX determines the estimated fair value of options using the binomial financial option-pricing model.

CEMEX concluded that the options in its "fixed program" (note 16A) represent equity instruments considering that services received are settled through the issuance of new shares upon exercise; meanwhile, options granted under its other programs (note 16B, C and D) represent liability instruments. Activity under these programs and their accounting effect are presented in note 16. The intrinsic value represents the existing appreciation between the market price of the share and the exercise price of such share established in the option.

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V) EMISSION RIGHTS: EUROPEAN EMISSION TRADING SYSTEM TO REDUCE GREENHOUSE GAS EMISSIONS

CEMEX, as a cement producer, is involved in the European Emission Trading Scheme ("EU ETS"), which aims to reduce carbon-dioxide emissions ("CO_2"). Under this directive, governments of the European Union ("EU") countries grant, currently at nil cost, CO_2 emission allowances ("EUAs"). If CO_2 emissions exceeded EUAs received, CEMEX would then be required to purchase the deficit of EUAs in the market, which would represent an additional production cost. The EUAs granted by any member state of the EU can be used to settle emissions in another member state. Consequently, CEMEX manages its portfolio of EUAs held on a consolidated basis for its cement production operations in the EU. In addition, the United Nations environmental agency grants Certified Emission Reductions ("CERs") to qualified CO_2 emission reduction projects. These certificates may be used in specified proportions to settle EUAs obligations with the EU ETS. As of December 31, 2008, CEMEX is developing several projects to reduce CO_2 emissions that generate CERs.

CEMEX's accounting policy to recognize the effects derived from the EU ETS, in the absence of IFRS or MFRS that defines an accounting recognition for these schemes, is the following: a) EUAs received from different EU countries are recognized at cost; this presently means at zero value; b) any revenues received from the sale of any surplus of EUAs are recognized, decreasing cost of sales; c) EUAs and/or CERs acquired to hedge current CO_2 emissions for the period are recognized at cost as intangible assets, and are amortized to cost of sales during the remaining compliance period; d) EUAs and/or CERs acquired for trading purposes are recognized at cost as financial assets and are restated at their market value as of the balance sheet date, recognizing changes in valuation within "Results from financial instruments"; e) CEMEX accrues a provision against cost of sales when the estimated annual emissions of CO_2 are expected to exceed the number of EUAs, net of any benefit in the form of EUAs and/or CERs obtained through exchange transactions; and f) forward purchase and sale transactions of EUAs and/or CERs to hedge deficits, or to dispose of certain surpluses, are treated as contingencies and are recognized at the amount paid or received upon physical settlement; meanwhile, forward transactions with trading purposes are treated as financial instruments and are recognized as assets or liabilities at their estimated fair value. Changes in valuation are recognized within "Results from financial instruments."

Second phase of the EU ETS began on January 1, 2008, comprising 2008 through 2012. CEMEX expected to receive from the governments an insufficient number of EUAs for the complete phase. Even though there were reductions in some countries of the number of EUAs received from phase I, the combined effect of alternate fuel that help reduce the emission of CO_2 and the downturn on production estimates in the European region during the phase, as a result of the global economic crisis, which deepened beginning in September 2008, generated an excess of EUAs received over the estimated CO_2 emissions during the second phase. From the consolidated surplus, nearly 10 million EUAs were sold during 2008, receiving an income of approximately Ps3,666 recognized in the cost of sales of 2008, decreasing the energy cost. In addition, as of December 31, 2008, there are contracts for the sale of 2,550,000 EUAs to be physically settled in March 2009 and 220,000 EUAs to be physically settled in December 2012, with a net aggregate amount of €42 (US$59 or Ps807). Likewise, as of December 31, 2008, there are contracts for the exchange of EUAs for CERs to be physically settled in December 2012, having a positive effect on CEMEX of 989,500 CERs. As of December 31, 2007, at the end of the first phase of EU ETS, CEMEX maintained a consolidated excess of EUAs over CO_2 emissions. During 2007 and 2006, CEMEX purchase or sale transactions of EUAs were not significant.

W) CONCENTRATION OF CREDIT

CEMEX sells its products primarily to distributors in the construction industry, with no specific geographic concentration within the countries in which CEMEX operates. As of December 31, 2008, 2007 and 2006, no single customer individually accounted for a significant amount of the reported amounts of sales or in the balances of trade receivables. In addition, there is no significant concentration of a specific supplier relating to the purchase of raw materials.

X) NEWLY ISSUED FINANCIAL REPORTING STANDARDS WITH IMPACT IN 2009

In 2008, CINIF issued the following MFRS, effective beginning January 1, 2009:

MFRS B-7, "Business Combinations" ("MFRS B-7"). New MFRS B-7 supersedes Bulletin B-7, "Business Combinations." MFRS B-7 establishes regulations for valuation and initial recognition of net assets as of the acquisition date, reiterating that business combinations shall be recognized through the purchase method and eliminating the purchase limit price when assets acquired and liabilities assumed are identified and valued, recognizing a possible gain at the moment of the purchase. No material impact is anticipated in the results of operations or in the financial position as a result of the application of MFRS B-7.

MFRS B-8, "Consolidated or Combined Financial Statements" ("MFRS B-8"). New MFRS B-8 supersedes Bulletin B-8, "Consolidated and Combined Financial Statements and Valuation of Permanent Investments." The main changes are: a) it is mandatory to consolidate entities with specific purposes when the Company has control; b) MFRS B-8 considers rights for potential votes, which are possible to exercise or convert, and that could modify the interference in the decision making process when control is evaluated; and c) MFRS B-8 transfers to other MFRS relative regulations for valuation of permanent investments. CEMEX does not anticipate any material effect on the results of operations or on its financial position due to the application of MFRS B-8.

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MFRS C-7, "Investment in Associates and Other Permanent Investments" ("MFRS C-7"). New MFRS C-7 applies to the accounting recognition of investment in associates and other permanent investments in which there is no control, joint control or significant influence. The most significant changes of new MFRS C-7 effective beginning January 1, 2009 are as follows: a) MFRS C-7 considers the existence of a right for potential votes, which is possible to exercise or convert in favor of the holding and that could modify significant influence; and b) MFRS C-7 establishes a specific procedure and a limit to recognize losses of the associated company. CEMEX does not anticipate a material effect on its results of operations or its financial position for changes in MFRS C-7.

MFRS C-8, "Intangible Assets" ("MFRS C-8"). New MFRS C-8 establishes general regulations for the initial and further recognition of intangible assets, which are individually acquired through business acquisitions, or internally generated during the normal course of business of an entity. The most significant changes beginning on January 1, 2009 are the following: a) subsequent R&D expenses on research projects and developments in process should be recognized as expenses as accrued if they relate to the research stage or as intangible assets if such expenses satisfy the recognition criteria; and b) MFRS C-8 eliminates the presumption that the useful life of an intangible asset could not exceed a period of twenty years. CEMEX does not anticipate any material effect in the results of operations or its financial position for application of MFRS C-8.

MFRS D-8, "Share-based Payments" ("MFRS D-8"). During 2008, CINIF issued new MFRS D-8, which establishes the methodology to account for share-based payments. As of December 31, 2008, CEMEX recognized its executive stock option programs according to IFRS 2 "Share-based payments," which does not differ in any important matter from new MFRS D-8. CEMEX does not anticipate any material effect in the results of operations or its financial position after the application of MFRS D-8.

3. CASH AND INVESTMENTS

Consolidated cash and investments as of December 31, 2008 and 2007, consists of:

	2008	2007
Cash and bank accounts	Ps 10,428	5,980
Fixed-income securities	2,574	2,516
Investments in marketable securities	602	174
	Ps 13,604	8,670

4. TRADE ACCOUNTS RECEIVABLE

Consolidated trade accounts receivable as of December 31, 2008 and 2007, consist of:

	2008	2007
Trade accounts receivable	Ps 20,610	22,854
Allowances for doubtful accounts	(2,334)	(2,135)
	Ps18,276	20,719

As of December 31, 2008 and 2007, trade receivables exclude accounts for Ps14,765 (US$1,075) and Ps12,325 (US$1,129), respectively, that were sold to financial institutions under securitization programs for the sale of trade receivables, established in Mexico, the United States, Spain and France. Under these programs, CEMEX effectively surrenders control associated with the trade receivables sold and there is no guarantee or obligation to reacquire the assets; therefore, the amount of receivables sold is removed from the balance sheet at the moment of sale, except for the amounts owed by the counterparties, which are reclassified to other short-term accounts receivable. Trade receivables qualifying for sale do not include amounts over certain days past due or concentrations over certain limits to any one customer, according to the terms of the programs. The discount granted to the acquirers of the trade receivables is recognized as financial expense and amounted to approximately Ps656 (US$58) in 2008, Ps673 (US$62) in 2007 and Ps475 (US$44) in 2006.

Allowances for doubtful accounts are established according to the credit history and risk profile of each customer. Changes in the valuation allowance for doubtful accounts in 2008, 2007 and 2006, are as follows:

	2008	2007	2006
Allowances for doubtful accounts at beginning of period	Ps 2,135	1,526	1,469
Charged to selling expenses	553	397	275
Deductions	(570)	(79)	(191)
Business combinations	63	175	—
Foreign currency translation and inflation effects	153	116	(27)
Allowances for doubtful accounts at end of period	Ps 2,334	2,135	1,526

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5. OTHER ACCOUNTS RECEIVABLE

Consolidated other accounts receivable as of December 31, 2008 and 2007, consist of:

	2008	2007
Non-trade accounts receivable	Ps 4,682	3,582
Current portion of valuation of derivative instruments	2,650	2,094
Interest and notes receivable	1,265	1,001
Loans to employees and others	813	1,850
Refundable taxes	535	1,303
	Ps9,945	9,830

Non-trade accounts receivable are mainly attributable to the sale of assets. Interest and notes receivable include Ps1,156 (US$84) in 2008 and Ps957 (US$88) in 2007, arising from uncollected trade receivables sold under securitization programs (note 4).

6. INVENTORIES

Consolidated balances of inventories as of December 31, 2008 and 2007, are summarized as follows:

	2008	2007
Finished goods	Ps 7,666	7,293
Work-in-process	3,718	3,565
Raw materials	3,991	3,297
Materials and spare parts	6,418	4,892
Advances to suppliers	676	567
Inventory in transit	429	573
Allowance for obsolescence	(540)	(556)
	Ps 22,358	19,631

Impairment losses of inventory of approximately Ps81, Ps131 and Ps93 in 2008, 2007 and 2006, respectively, were recognized within other expenses, net.

7. OTHER CURRENT ASSETS

Other current assets in the consolidated balance sheets as of December 31, 2008 and 2007 consist of:

	2008	2007
Advance payments	Ps 1,478	1,954
Assets held for sale	2,534	440
	Ps 4,012	2,394

Assets held for sale are stated at their estimated realizable value. As of December 31, 2008, the balance of assets available for sale includes Ps1,080 as a result of reclassifying current assets from Austria and Hungary (note 10A).

8. INVESTMENTS IN ASSOCIATES AND OTHER INVESTMENTS AND NON-CURRENT ACCOUNTS RECEIVABLE

8A) INVESTMENTS IN ASSOCIATES

Consolidated investments in shares of associates as of December 31, 2008 and 2007, are summarized as follows:

	2008	2007
Book value at acquisition date	Ps 8,033	4,624
Interest in changes of stockholders' equity	6,167	5,596
	Ps 14,200	10,220

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As of December 31, 2008 and 2007, CEMEX's main investments in associates are as follows:

	Activity	Country	%	2008	2007
Control Administrativo Mexicano, S.A. de C.V.	Cement	Mexico	49.0	Ps 4,439	3,684
Ready Mix USA, LLC	Concrete	United States	49.9	2,586	277
Cement Australia Holdings Pty Limited	Cement	Australia	25.0	2,199	1,447
Trinidad Cement Ltd	Cement	Trinidad	20.0	660	454
Cancem, S.A. de C.V.	Cement	Mexico	10.3	480	387
Société Méridionale de Carrières	Aggregates	France	33.3	320	248
Société d'Exploitation de Carrières	Aggregates	France	50.0	254	215
Société des Ciments Antillais	Cement	French Antilles	26.1	231	231
Huttig Building Products Inc.	Materials	United States	28.1	228	333
Lehigh White Cement Company	Cement	United States	24.5	224	183
Other companies	—	—	—	2,579	2,761
				Ps 14,200	10,220

In 2005, CEMEX Inc., the Company's subsidiary in the United States, and Ready Mix USA, Inc., a ready-mix concrete producer in the Southeastern United States, established two limited liability companies, CEMEX Southeast, LLC and Ready Mix USA, LLC. Pursuant to the relevant agreements, CEMEX contributed to CEMEX Southeast, LLC the cement plants in Demopolis, AL and Clinchfield, GA and 11 cement terminals, representing approximately 98% of the contributed capital, while Ready Mix USA's contributions represented approximately 2% of the contributed capital. To Ready Mix USA, LLC, CEMEX contributed ready-mix concrete, aggregates and concrete block plants in Florida and Georgia, representing approximately 9% of the contributed capital, while Ready Mix USA contributed all of its ready-mix concrete and aggregates operations in Alabama, Georgia, the Panhandle region in Florida and Tennessee, as well as its concrete block plants in Arkansas, Tennessee, Mississippi, Florida and Alabama, representing approximately 91% of the contributed capital. CEMEX owns a 50.01% interest, and Ready Mix USA owns a 49.99% interest, in the profits and losses and voting rights of CEMEX Southeast, LLC; whereas Ready Mix USA owns a 50.01% interest and CEMEX owns a 49.99% interest, in the profits and losses and voting rights of Ready Mix USA, LLC. As of December 31, 2008 and 2007, CEMEX has control and fully consolidates CEMEX Southeast, LLC, while the CEMEX interest in Ready Mix USA, LLC is accounted for by the equity method.

On January 11, 2008, in connection with the assets acquired from Rinker (note 10A), and as part of the agreements with Ready Mix USA, CEMEX contributed and sold to Ready Mix USA, LLC certain assets located in the sites of Georgia, Tennessee and Virginia, at a fair value of approximately US$437, receiving an established value of US$380, which included the value of the contribution of US$260 and the value of the sale of US$120 received in cash. As part of the same transaction, Ready Mix USA contributed US$125 in cash to its Ready Mix USA, LLC, which in turn, received bank loans of US$135 and made a special distribution in cash for US$135. Ready Mix USA manages all the assets acquired. Following this transaction, Ready Mix USA, LLC continues to be owned 50.01% by Ready Mix USA and 49.99% by CEMEX. The difference between the fair value and the established value of approximately US$57 is included within investment in associates.

In March 2008 CEMEX announced the sale, through a subsidiary, of 119 million of CPOs of AXTEL, S.A.B. de C.V. ("AXTEL"), which represented 9.5% of the equity capital of AXTEL for approximately Ps2,738, recognizing a net gain of approximately Ps1,463 in 2008 within other expenses, net. The sale represented approximately 90% of CEMEX's position in AXTEL, which has been part of the Company's investments in associates.

During 2006, CEMEX sold its 25.5% interest in the Indonesian cement producer PT Semen Gresik for approximately US$346 (Ps4,053), including dividends declared of approximately US$7 (Ps82), generating a gain of approximately Ps1,045, net of selling expenses and the write-off of related goodwill of approximately Ps117 and other selling expenses that were recorded in 2006 within other expenses, net.

8B) OTHER INVESTMENTS AND NON-CURRENT ACCOUNTS RECEIVABLE

As of December 31, 2008 and 2007, other investments and non-current accounts receivable are summarized as follows:

	2008	2007
Non-current portion of valuation of derivative instruments	Ps 8,002	5,035
Non-current accounts receivable and other assets	16,138	5,933
Investments in private funds	493	371
	Ps 24,633	11,339

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In 2008, the caption "Non-current accounts receivable and other assets" include approximately Ps6,877 corresponding to CEMEX's net investment in confiscated assets in Venezuela (note 10A), as well as the remaining portion of CPOs of AXTEL for approximately Ps98 and the reclassification of non-current assets of Austria and Hungary (note 10A) for approximately Ps4,005.

In 2008, 2007 and 2006, proceeds were contributed to private funds for approximately US$1 (Ps14), US$4 (Ps44) and US$14 (Ps164), respectively.

9. PROPERTY, MACHINERY AND EQUIPMENT

Consolidated property, machinery and equipment as of December 31, 2008 and 2007, consist of:

	2008	2007
Land and mineral reserves	Ps 89,534	84,920
Buildings	67,029	64,975
Machinery and equipment	265,745	245,270
Construction in progress	17,999	21,260
Accumulated depreciation and depletion	(158,449)	(154,236)
	Ps 281,858	262,189

Changes in property, machinery and equipment in 2008, 2007 and 2006, are as follows:

	2008	2007	2006
Cost of property, machinery and equipment at beginning of period	Ps 416,425	340,265	325,382
Accumulated depreciation and depletion at beginning of period	(154,236)	(138,840)	(130,217)
Net book value at beginning of period	262,189	201,425	195,165
Capital expenditures	23,291	22,221	18,038
Capitalization of comprehensive financing result	609	68	6
Total additions [1]	23,900	22,289	18,044
Disposals [2]	(5,341)	(510)	(1,977)
Reclassifications [3]	(11,656)	—	—
Contribution and sale to associates [4]	(4,588)	—	—
Additions through business combinations	(520)	53,870	342
Depreciation and depletion for the period	(16,448)	(14,876)	(12,357)
Impairment losses	(1,045)	(64)	(611)
Foreign currency translation and inflation effects [5]	35,367	55	2,819
Cost of property, machinery and equipment at end of period	440,307	416,425	340,265
Accumulated depreciation and depletion at end of period	(158,449)	(154,236)	(138,840)
Net book value at end of period	Ps 281,858	262,189	201,425

[1] The item of "Property, machinery and equipment, net" in the statement of cash flows in 2008 and in the statements of changes in financial position in 2007 and 2006, includes capital expenditures and capitalization of comprehensive financing results.

[2] In 2008, this caption includes approximately Ps4,200 of the carrying amount of fixed assets sold in Italy and Spain (note 10A), which are presented within "Sales of subsidiaries and associates, net" in the consolidated statement of cash flows.

[3] This caption includes the reclassification to "Other non-current assets" for the expropriation of Venezuela for approximately Ps8,053, and the reclassification of fixed assets in Austria and Hungary as assets available for sale to the caption of "Other non-current trade receivable" for Ps3,603.

[4] Refers to the contribution and sale of assets to Ready Mix USA, LLC detailed in note 8A.

[5] The effects presented in this caption refer to fluctuations in exchange rates for the period between the functional currency of the reporting unit and the peso, and, until December 31, 2007 the restatement adjustment to constant pesos.

During 2008, impairment losses were recognized in the United States for Ps511, Poland for Ps322 and others for Ps212. These losses relate to permanent closing of operating assets in different countries, mainly in the concrete sector resulting from adjusting the supply of CEMEX's products to current demand conditions or from transferring installed capacity to more efficient plants. During 2007 and 2006, impairment losses of fixed assets were mainly attributable to idle assets in the United Kingdom, Mexico and the Philippines. The related assets were adjusted to their estimated realizable value.

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10. GOODWILL, INTANGIBLE ASSETS AND DEFERRED CHARGES

Consolidated goodwill, intangible assets and deferred charges as of December 31, 2008 and 2007, are summarized as follows:

	2008			2007		
	Cost	Accumulated amortization	Carrying amount	Cost	Accumulated amortization	Carrying amount
Intangible assets of indefinite useful life:						
Goodwill	Ps164,608	—	164,608	Ps151,409	—	151,409
Intangible assets of definite useful life:						
Extraction rights	31,165	(1,673)	29,492	24,534	(709)	23,825
Cost of internally developed software	7,997	(3,807)	4,190	7,769	(2,473)	5,296
Industrial property and trademarks	4,567	(1,850)	2,717	5,529	(900)	4,629
Customer relationships	6,666	(916)	5,750	4,914	(255)	4,659
Mining projects	1,446	(150)	1,296	1,929	(204)	1,725
Other intangible assets	8,010	(3,472)	4,538	6,240	(3,038)	3,202
Deferred charges and others:						
Deferred income taxes (note 14B)	21,300	—	21,300	776	—	776
Intangible assets for pensions (note 13)	—	—	—	905	—	905
Deferred financing costs	1,291	(446)	845	1,222	(326)	896
	Ps 247,050	(12,314)	234,736	Ps205,227	(7,905)	197,322

The amortization of intangible assets of definite useful life was approximately Ps4,416 in 2008, Ps2,790 in 2007 and Ps1,604 in 2006, recognized within operation costs and expenses, except for approximately Ps255 in 2007, as a result of intangible assets related to customers, which were recognized within "Other expenses, net."

At December 31, 2007, based on a preliminary allocation of the purchase price of Rinker (note 10A), CEMEX had identified intangible assets related to extraction permits in the cement and aggregates sector in the United States and Australia for an amount of Ps10,156 as intangible assets of indefinite life, considering that the Company had capacity and the intention to renew them indefinitely. In April 2008, as part of the allocation of the purchase price of Rinker ended on June 30, 2008 and considering new information and evidence which was unavailable at the end of 2007, CEMEX changed the definition of such intangible assets and assigned a useful life to them at an average of 30 years. CEMEX started to amortize these assets prospectively.

Goodwill

Goodwill is recognized at the acquisition date based on the preliminary allocation of the purchase price. If applicable, goodwill is subsequently adjusted for any correction to the preliminary assessment given to the assets acquired and/or liabilities assumed, within the twelve-month period after purchase. The increase in goodwill in 2007 results from the acquisition of Rinker. As mentioned in note 2J, goodwill is not amortized and is subject to impairment tests. As mentioned in note 10C, based on impairment tests made during the last quarter of 2008, goodwill impairment losses for the United States, Ireland and Thailand reporting units for approximately Ps17,476 (US$1,272) were determined. In addition, considering that the investment in CEMEX Venezuela is to be recovered through other means different than use (note 10A), CEMEX recognized an impairment loss of approximately Ps838 (US$61) associated with the goodwill of this investment.

Changes in goodwill as of December 31 in 2008, 2007 and 2006, are summarized as follows:

	2008	2007	2006
Balance at beginning of period	Ps151,409	56,546	56,447
Increase (decrease) for business acquisitions	(742)	97,505	2,795
Disposals	(187)	—	(117)
Impairment losses (note 10C)	(18,314)	—	—
Inflation effects and foreign exchange translation adjustments [1]	32,442	(2,642)	(2,579)
Balance at end of period	Ps164,608	151,409	56,546

1. The amounts presented in this column refer to the effects on goodwill from foreign exchange fluctuations during the period between the reporting units' currencies and the Mexican peso, and the effect of the restatement into constant pesos until December 31, 2007.

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Goodwill balances by reporting unit as of December 31, 2008 and 2007 are summarized as follows:

	2008	2007
North America		
United States	Ps 123,428	109,737
Mexico	6,412	6,412
Europe		
Spain	9,069	8,177
France	3,638	3,139
United Kingdom	4,350	3,945
Other Europe [1]	697	1,041
Central and South America and the Caribbean		
Colombia	5,063	4,302
Venezuela	—	627
Dominican Republic	231	191
Other Central and South America and the Caribbean [2]	985	839
Africa and Middle East		
Egypt	231	229
United Arab Emirates	1,557	1,450
Asia and Australia		
Australia	7,067	9,065
Philippines	1,505	1,145
Thailand	—	358
Other Asia	—	12
Others		
Other reporting units [3]	375	740
	Ps164,608	151,409

1. "Other Europe" refers to the reporting units in the Czech Republic, Ireland and Latvia.

2. "Other Central and South America and the Caribbean" refers mainly to the reporting units in Costa Rica, Panama and Puerto Rico.

3. This segment primarily consists of CEMEX's subsidiary in the information technology and software development business.

Intangible assets of definite life

Changes in balances of intangible assets of definite life in 2008, 2007 and 2006, are as follows:

	2008	2007	2006
Balance at beginning of period	Ps 43,336	8,610	6,979
Increase for business acquisitions [1]	539	33,582	—
Additions (disposals), net [2]	1,445	3,430	2,883
Amortization	(4,416)	(2,570)	(1,586)
Impairment losses [3]	(1,598)	—	—
Inflation effects and foreign exchange translation adjustments	8,677	284	334
Balance at end of period	Ps47,983	43,336	8,610

1 In connection with the Rinker acquisition in 2007, intangible assets in the United States and Australia were identified and valued. These assets relate to extraction permits in the cement, aggregates and ready-mix concrete sectors for approximately Ps23,427, which were amortized during their estimated useful life of 30 years; trademarks and commercial names for approximately Ps4,939, amortized during a five-year useful life; and intangibles based on customer relations for approximately Ps5,755, which were assigned a useful life of 10 years.

2 During 2008, 2007 and 2006, CEMEX capitalized the costs incurred in the development stage of internal-use software for Ps1,236, Ps3,034 and Ps2,383, respectively, related to the replacement of the technological platform in which CEMEX executes the most important processes of its business model. The items capitalized refer to direct costs incurred in the development phase of the software and relate mainly to professional fees, direct labor and related travel expenses.

3 Considering impairment triggering events, during the last quarter of 2008, CEMEX tested intangible asses of definite life for impairment in the United States, determining that the net book value of names and commercial trademarks exceeded their value in use, resulting in an impairment loss of approximately Ps1,598.

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A) MAIN ACQUISITIONS AND DIVESTITURES IN 2008, 2007 AND 2006

Nationalization of CEMEX Venezuela

On June 18, 2008, the Government of Venezuela promulgated a presidential decree (the "Nationalization Decree") which commanded that the cement production industry in Venezuela be reserved to the State and ordered the conversion of foreign-owned cement companies, including CEMEX Venezuela, S.A.C.A. ("CEMEX Venezuela"), into state controlled companies with Venezuela holding an equity interest of at least 60%. The Nationalization Decree established August 17, 2008 as the deadline for the controlling shareholders of foreign-owned companies to reach an agreement with the Government of Venezuela on the compensation for the nationalization. The Nationalization Decree stipulates that if an agreement is not reached, Venezuela shall assume exclusive operational control of the relevant cement company and the Venezuelan National Executive shall decree the expropriation of the relevant shares according to the Venezuelan expropriation law. CEMEX controlled and operated CEMEX Venezuela until August 17, 2008. Afterwards, the Government of Venezuela ordered the confiscation of all business, assets and shares of CEMEX Venezuela and took control of its facilities on August 18, 2008.

CEMEX's consolidated income statements for the years ended December 31, 2008, 2007 and 2006 include the results of CEMEX Venezuela for the seven-month period ended July 31, 2008 and for the years ended December 31, 2007 and 2006, respectively. For balance sheet purposes, as of December 31, 2008, the investment of CEMEX in Venezuela was presented within "Other investments and non-current accounts receivable" (note 8B). As of December 31, 2008 and 2007, the net book value of CEMEX's investment in Venezuela was approximately Ps6,877 and Ps6,732, respectively, corresponding to CEMEX's equity interest of approximately 75.7%.

On August 20, 2008, CEMEX received from the Government of Venezuela a compensation proposal for US$650. CEMEX decided not to accept such proposal, believing that it significantly undervalued its business in Venezuela. This proposal was significantly lower than those offered to other foreign companies for their assets in Venezuela, considering price per ton of installed capacity as well as operating cash flow multiples. In October 2008, CEMEX's subsidiaries in Holland, which held CEMEX's shares in CEMEX Venezuela, submitted a complaint seeking international arbitration to the International Centre for Settlement of Investment Disputes following the Venezuelan Government's confiscation of assets, deprivation of rights of CEMEX Venezuela as well as the initiation of the expropriation of CEMEX's Venezuelan business. At December 31, 2008, except for the goodwill impairment loss (note 10C), CEMEX has not made any impairment adjustments to its investment in Venezuela, remaining confident that it will eventually reach an agreement and obtain fair compensation. Nevertheless, CEMEX carefully evaluates the evolution of the arbitration process and other negotiations to determine if the carrying amount requires an impairment adjustment.

Based on MFRS C-15, significant disposals should be treated as discontinued operations in the income statement for all the periods presented. CEMEX measured the materiality of CEMEX Venezuela during each period presented, considering a threshold of 5% of consolidated net sales, operating income, net income and total assets. Considering the results of the quantitative tests, CEMEX concluded that the nationalized Venezuelan operations did not reach the materiality thresholds to be classified as discontinued operations. The results of CEMEX's quantitative tests for the seven-month period ended July 31, 2008 (unaudited) and for the years ended December 31, 2007 and 2006 are as follows:

	2008	2007	2006
Net sales	**3.0%**	**2.9%**	**2.6%**
CEMEX consolidated	Ps 145,164	236,669	213,767
CEMEX Venezuela	4,286	6,823	5,496
Operating income	**4.6%**	**4.2%**	**3.6%**
CEMEX consolidated	Ps 16,992	32,448	34,505
CEMEX Venezuela [1]	775	1,358	1,245
Net income	**0.1%**	**3.2%**	**3.6%**
CEMEX consolidated	Ps 11,314	26,945	29,147
CEMEX Venezuela	11	852	1,039
Total assets	**2.1%**	**2.1%**	
CEMEX consolidated	Ps525,756	542,314	
CEMEX Venezuela	11,010	11,515	

In addition, as of December 31, 2007, CEMEX Venezuela was the holding entity of several of CEMEX's investments in the region, including CEMEX's operations in the Dominican Republic and Panama, as well as CEMEX's minority investment in a Trinidad company. Before the nationalization of assets in Venezuela, in April 2008, CEMEX concluded the transfer of all material non-Venezuelan investments to CEMEX España, S.A. for approximately US$355 plus US$112 of net debt, having distributed all accrued profits from the non-Venezuelan investments to the stockholders of CEMEX Venezuela amounting to approximately US$132.

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Condensed balance sheets of CEMEX's operations in Venezuela as of July 31, 2008 (unaudited) and December 31, 2007 are as follows:

	2008	2007
Current assets	Ps 2,532	1,492
Non-current assets [2]	8,478	10,023
Total assets	11,010	11,515
Current liabilities	2,753	1,457
Non-current liabilities	1,384	1,085
Total liabilities	4,137	2,542
Total net assets	6,873	8,973
Minority interest	(1,507)	(2,241)
CEMEX's interest in total net assets [3]	Ps 5,366	6,732

The following table presents condensed selected income statement information for CEMEX's operations in Venezuela for the seven-month period ended July 31, 2008 (unaudited) and for the years ended December 31, 2007 and 2006:

	2008	2007	2006
Sales	Ps4,286	6,823	5,496
Operating income [1]	775	1,358	1,245
Net income	Ps 11	852	1,039

[1] Operating income in these tables excludes the margin realized in related-party transactions; therefore, it is not directly comparable to selected financial information from the "Venezuela" segment presented in note 17.

[2] Includes goodwill in both periods of approximately US$61 which was adjusted for impairment at the end of 2008 (note 10C).

[3] The change in the net investment between July 31, 2008 and December 31, 2008 is attributable to fluctuations in foreign exchange rates.

Sale of operations in Canary Islands

On December 26, 2008, CEMEX sold assets in the cement and concrete sectors in the Canary Islands through its subsidiary in Spain, including its 50% interest of Cementos Especiales de Las Islas, S.A. ("CEISA") to Cimpor Inversiones S.A. ("Cimpor"), a subsidiary of Cimpor Cimentos de Portugal SGPS SA, for €162 (US$227 or Ps3,113), €5 of which is being held in escrow in a special deposit account to cover any price adjustments as guarantee of possible contingencies, in addition to a separate payment for working capital pending to be executed. Up to the moment of the sale, CEMEX controlled CEISA together with another shareholder (Grupo Tudela Beguin) and the financial statements were consolidated through the proportional integration method (note 2C), considering its 50% interest. CEMEX's consolidated income statement includes the results of operations of the assets sold, calculated through the proportional integration method for assets related to CEISA, for the twelve-month period ended on December 31, 2008. Sale of CEISA and other assets generated a net gain of approximately Ps920, which includes the cancellation of related goodwill for approximately Ps18 and was recognized in 2008 within other expenses, net.

The condensed combined balance sheets of the assets sold and CEISA as of December 31, 2008 and 2007 are as follows:

	2008	2007
Current assets	Ps 455	743
Non-current assets	1,992	1,721
Total assets	2,447	2,464
Current liabilities	303	795
Non-current liabilities	33	50
Total liabilities	336	845
Total net assets	Ps 2,111	1,619

Selected condensed combined information of income statement of the assets sold and CEISA in 2008, 2007 and 2006, are the following:

	2008	2007	2006
Sales	Ps2,317	2,962	2,716
Operating income	283	529	424
Net income	Ps 371	494	388

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Agreement to sell operations in Austria and Hungary

On July 31, 2008, CEMEX reached an agreement to jointly sell its operations in Austria and Hungary to Strabag SE, a European construction and building materials group, for an approximate amount of €310 (US$433 or Ps5,949). The sale was subject to approval by the antitrust authorities in both countries, as well as Strabag Supervisory Board. As of December 31, 2008, competent authorities of Austria and Hungary had not given their authorization. CEMEX evaluated the materiality of its operations in Austria and Hungary, concluding that these operations were not significant to be classified as discontinued operations since the materiality limits are not exceeded.

Condensed combined balances of Austria and Hungary as of December 31, 2008 and 2007 are the following:

	2008	2007
Current assets	Ps 1,080	896
Non-current assets	4,005	3,710
Total assets	5,085	4,606
Current liabilities	772	615
Non-current liabilities	1,172	1,086
Total liabilities	1,944	1,701
Net assets	Ps 3,141	2,905

The main captions of the combined income statements of Austria and Hungary for the years ended December 31, 2008, 2007 and 2006 are the following:

	2008	2007	2006
Sales	Ps4,321	3,883	4,431
Operating income	9	(14)	21
Net loss	Ps (19)	(65)	(179)

Sale of operations in Italy

In several transactions that took place during December 2008, CEMEX sold its cement mill operations in Italy for an amount of approximately €148 (US$210 or Ps2,447), generating a net income of approximately €8 (US$12 or Ps119), which was recognized within "Other expenses, net."

Rinker acquisition

CEMEX acquired 100% of the shares of Rinker, an Australian producer of aggregates, cement, concrete and other construction materials, through a public tender offer, which started in October 2006 and finished in July 2007. On June 7, 2007, CEMEX's offer to acquire all outstanding shares of Rinker became unconditional after obtaining tenders of more than 50% of the outstanding shares. On July 10, 2007, the date on which CEMEX obtained acceptances of more than 90% of the shares, CEMEX announced the compulsory purchase of the other shares which were not acquired under the offer. The purchase price paid for the Rinker shares, including direct acquisition costs, was approximately US$14,245 (Ps155,559), not including approximately US$1,277 (Ps13,943) of assumed debt. For its fiscal year ended March 31, 2007, Rinker reported consolidated revenues of approximately US$5,300 (unaudited). Approximately US$4,100 (unaudited) of these revenues were generated in the United States, and approximately US$1,200 (unaudited) were generated in Australia and China. In Australia, Rinker's main activities are oriented to the production and sale of ready-mix concrete and other construction materials. For accounting purposes, the acquisition of Rinker was effective as of July 1, 2007. CEMEX's consolidated financial statements as of December 31, 2007 include Rinker's balance sheet as of December 31, 2007 and its results of operations for the six-month period ended December 31, 2007.

The Rinker acquisition was in line with CEMEX's strategy to invest in the construction industry value chain and increased CEMEX's aggregates and ready-mix concrete business investment in the United States. Rinker operations are a complement for CEMEX, increasing its presence in the states of Florida, California, Arizona and Nevada. Likewise, CEMEX entered Australia, where Rinker was the second largest building materials company. In addition, at the time of the acquisition, Rinker owned and operated aggregate quarries, some of which are strategically located near population centers. Authorized aggregate quarries are scarce in many areas of the United States and Australia, considering the nature of resources, costs and necessary approvals to establish and operate such quarries. Through the Rinker acquisition, CEMEX increased its aggregates reserves by approximately 3,600 million metric tons, equivalent to approximately 30 and 43 years of production in the United States and Australia, respectively.

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The preliminary goodwill associated with the Rinker acquisition assigned as of December 31, 2007 was approximately Ps97,448 (US$8,924). From January 1 to June 30, 2008, CEMEX completed the allocation of the purchase price of Rinker to the fair values of the assets acquired and liabilities assumed, and made modifications to the amounts determined during the preliminary allocation, resulting in adjustments to the preliminary goodwill associated with this acquisition. The final amount of goodwill was Ps96,812 (US$8,866). CEMEX considers that the Rinker goodwill was mainly generated by: a) the existence of intangible assets that could not be easily separated and quantified, so they were transferred to goodwill, such as those related to human capital, industry potential and synergies, as well as those related to Rinker's business model; and b) a significant portion of the value in perpetuity of the acquired business is transferred to goodwill as a result of the use, for the valuation of the specific assets acquired, of models based on expected cash flows that are determined over an estimated useful life.

Final allocation of the purchase price of Rinker as of the acquisition date of July 1, 2007, considering an exchange rate of Ps10.92 pesos per dollar as of December 31, 2007, was as follows:

	Rinker 2007
Current assets [1]	Ps 19,069
Investments and other non-current assets	3,377
Property, machinery and equipment	53,350
Intangible assets and other assets [2]	34,917
Goodwill	96,812
Total assets acquired	207,525
Current liabilities [3]	10,405
Non-current liabilities [3]	16,745
Deferred income tax liability	24,816
Total liabilities assumed	51,966
Total net assets	Ps155,559

[1] Includes Ps4,174 of cash and cash equivalents and Ps2,099 of assets held for sale related to the divestiture order of the U.S. Department of Justice.

[2] This caption includes: 1) Ps468 of deferred tax assets; 2) extraction rights of Ps23,427 with an estimated useful life of 30 years; 3) commercial names and trademarks of Ps4,939 with an estimated useful life of 5 years; and 3) intangible assets related to customer relationships of approximately Ps5,755 with an estimated useful life of 10 years.

[3] Current liabilities include Ps102 of debt; non-current liabilities include Ps13,841 of debt, Ps1,375 of remediation liabilities, and Ps148 of other post-retirement benefits.

As required by the Department of Justice of the United States, pursuant to a divestiture order in connection with the Rinker acquisition, in December 2007, CEMEX sold to the Irish producer CRH plc, ready-mix concrete and aggregates plants in Arizona and Florida for approximately US$250, of which approximately US$30 corresponded to the sale of assets from CEMEX's pre-Rinker acquisition operations, which generated a gain in 2007 of approximately Ps142, recognized within "Other expenses, net."

B) CONDENSED PRO FORMA FINANCIAL STATEMENTS (UNAUDITED)

CEMEX presents condensed pro forma income statements for the years ended December 31, 2007 and 2006, giving effect to the Rinker acquisition as if it had occurred on January 1, 2006. The pro forma financial information is presented solely for the convenience of the reader and is not indicative of the results that CEMEX would have reported, nor should such information be taken as representative of CEMEX's future results. Pro forma adjustments consider the fair values of the net assets acquired, under assumptions that CEMEX considered reasonable.

Year ended December 31, 2007	CEMEX1	Rinker 2	Adjustments 3	CEMEX pro forma
Sales	Ps236,669	28,249	—	264,918
Operating costs and expenses	(204,221)	(24,522)	—	(228,743)
Operating income	32,448	3,727	—	36,175
Other expenses, net	(3,281)	111	—	(3,170)
Comprehensive financing result	1,087	(194)	(3,463)	(2,570)
Equity in income of associates	1,487	122	—	1,609
Income before income taxes	31,741	3,766	(3,463)	32,044
Income taxes	(4,796)	(1,278)	970	(5,104)
Consolidated net income	26,945	2,488	(2,493)	26,940
Minority interest net income	837	15	—	852
Majority interest net income	Ps 26,108	2,473	(2,493)	26,088
Majority income basic EPS	Ps 1.17	—	—	1.17
Majority income diluted EPS	Ps 1.17	—	—	1.17

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Condensed pro forma income statement information – continued

Year ended December 31, 2006	CEMEX 1	Rinker 2	Adjustments 3	CEMEX pro forma
Sales	Ps 213,767	64,735	—	278,502
Operating costs and expenses	(179,262)	(53,537)	—	(232,799)
Operating income	34,505	11,198	—	45,703
Other expenses, net	(580)	(313)	—	(893)
Comprehensive financing result	(505)	431	(5,698)	(5,772)
Equity in income of associates	1,425	307	—	1,732
Income before income taxes	34,845	11,623	(5,698)	40,770
Income taxes	(5,698)	(3,661)	1,653	(7,706)
Consolidated net income	29,147	7,962	(4,045)	33,064
Minority interest net income	1,292	49	—	1,341
Majority interest net income	Ps 27,855	7,913	(4,045)	31,723
Majority income basic EPS	Ps 1.29	—	—	1.47
Majority income diluted EPS	Ps 1.29	—	—	1.47

1 Includes Rinker's operations for the six-month period from July 1 to December 31, 2007.

2 In 2007, refers to the pro forma six-month period from January 1 to June 30, 2007, prepared under IFRS by Rinker, which was translated from U.S. dollars into pesos at the average exchange rate of Ps10.95 , and then restated into constant pesos at December 31, 2007. In 2006, refers to the twelve-month period ended on March 31, 2007, prepared under IFRS by Rinker, which was converted from U.S. dollars into pesos at an average exchange rate of Ps10.91 and restated into constant pesos as of December 31, 2007. The pro forma information for the periods was adjusted to include the effects of the purchase price allocation and application of MFRS. Pro forma adjustments in 2006 and 2007 are as follows:

Item	2007	2006
Recomputed depreciation expense	Ps (519)	(1,092)
Intangible assets amortization	(1,035)	(2,176)
Restatement of inventories	—	(262)
Monetary position result	96	398
Deferred income taxes *	502	1,079
	Ps (956)	(2,053)

* In 2007 and 2006, the income tax effect for pro forma adjustments was determined using the approximate average effective tax rate of 33% and 34%, respectively.

3 In 2007 and 2006, refers to pro forma adjustments for the six-month period in 2007 and the twelve-month period in 2006, related to the financing for the Rinker acquisition:

Item	2007	2006
Financial expense *	Ps(4,522)	(9,165)
Foreign exchange fluctuations *	—	(2,764)
Results from financial instruments	—	2,015
Monetary position result	1,059	4,216
Deferred income taxes *	970	1,653
	Ps(2,493)	(4,045)

* Foreign exchange fluctuations were determined on the basis of approximately US$14,159 of debt incurred for the purchase of Rinker, using an interest rate of 5.65% and 5.53% for 2007 and 2006, respectively. In 2007, no foreign exchange adjustments resulted from such debt considering that the exchange rate at June 30, 2007 of Ps10.80 pesos per dollar was the same as the exchange rate at December 31, 2006. In 2006, foreign exchange fluctuations on indebtedness were determined based on the variation between the foreign exchange rates as of December 31, 2006 of Ps10.80 per dollar against the foreign exchange rate as of December 31, 2005 of Ps10.62 per dollar. The statutory tax rates of 28% and 29% applicable in Mexico in 2007 and 2006 were used to determine the income tax effect of pro forma consolidation adjustments.

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C) ANALYSIS OF GOODWILL IMPAIRMENT

For the years ended December 31, 2007 and 2006, CEMEX did not recognize impairment losses of goodwill, considering that all annual impairment tests presented an excess of the value in use over the net book value of the reporting units. During the last quarter of 2008, the global economic environment was negatively affected, intensified by the crisis in financial institutions, which has caused financing scarcity in almost all productive sectors, resulting in a decrease in economic activity and a worldwide downturn of the main market values. This effect has lowered the growth expectations within the countries in which CEMEX operates, motivated by the cancellation or deferral of several investment projects, particularly affecting the construction industry.

CEMEX tested goodwill for impairment during the fourth quarter of 2008. These tests coincided with the economic crisis described in the paragraph above, which represented an impairment indicator. Goodwill amounts are allocated to the multiple cash generating units, which together comprise a geographic operating segment commonly comprising all of the operations in each country as explained in the financial information by geographic segments presented in note 17. CEMEX's geographic segments also represent its reporting units for purposes of impairment testing. An impairment loss was recognized for an amount that represents the excess of the carrying amount of the reporting unit over the value in use attributable to such reporting unit.

The fair value of each reporting unit is determined through the value in use method (discounted cash flows). Cash flow projection models for valuation of long-lived assets include long-term economic variables. Nevertheless, CEMEX considers that its cash flow projections and the discount rates used for discounted cash flows reasonably capture current negative conditions, considering that: a) the starting point of the future cash flow models is the operating cash flow for 2008, a year which was negatively affected by the economic situation, instead of stabilized or historical operating cash flows; b) the cost of capital reflects the current volatility of the markets, when it was normally used an average risk for the last years; and c) the cost of debt was based on CEMEX's specific interest rates observed in recent transactions.

CEMEX uses after-tax discount rates, which are applied to after-tax cash flows. Starting in 2008, the discount rates and cash flows from each country include their respective tax rates. Until 2007, the discount rate and the cash flow from each country included an estimated consolidated effective tax rate of approximately 20%. Discount rates and growth rates in perpetuity used in the reporting units that represent most of the consolidated balance of goodwill in 2008 and 2007 are as follows:

Reporting units	Discount rates		Growth rates	
	2008	2007	2008	2007
United States	9.2%	9.3%	2.9%	2.5%
Spain	10.8%	9.6%	2.5%	2.5%
Mexico	12.0%	10.3%	2.5%	2.5%
Colombia	11.8%	10.8%	2.5%	2.5%
France	11.2%	9.6%	2.5%	2.5%
United Arab Emirates	13.0%	9.8%	2.5%	2.5%
United Kingdom	9.8%	9.4%	2.5%	2.5%
Australia	11.1%	—	2.5%	—
Range of discount rates in other countries	11.3% – 15.0%	8.9% – 13.1%	2.5%	2.5%

The reporting units acquired from Rinker were not tested for impairment in 2007, considering that the related net assets were recorded at their estimated fair values as of the acquisition date of July 1, 2007 and there were no significant changes in such values as of December 31, 2007.

For the year ended December 31, 2008, CEMEX recognized within "Other expenses, net" goodwill impairment losses for a total amount of Ps18,314 (US$1,333). In compliance with MFRS C-15, CEMEX tested goodwill for impairment during the last quarter of 2008 using discounted cash flows to determine the value in use of the reporting units and compared them against their carrying amounts. The results of the impairment tests indicated that the carrying amount of the United States, Ireland and Thailand reporting units exceeded their respective value in use for approximately Ps16,790 (US$1,222), Ps233 (US$17) and Ps453 (US$33), respectively. The estimated impairment loss in the United States is mainly attributable to the acquisition of Rinker in 2007, and overall is attributable to the negative economic situation expected in the worldwide markets during 2009 and 2010 in the construction industries. Those factors significantly affected the variables included in the projections of estimated cash flows in comparison with valuations made at the end of 2007. In addition, considering that CEMEX's investment in Venezuela is to be recovered through different means other than use, CEMEX recognized an impairment loss for approximately Ps838 (US$61) associated with the goodwill of this investment.

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11. DEBT AND FINANCIAL INSTRUMENTS

A) SHORT-TERM AND LONG-TERM DEBT

Consolidated debt as of December 31, 2008 and 2007, is summarized as follows:

Debt according to interest rate, currencies and type of instrument in which debt was contracted:

	Carrying amount		Effective rate [1]	
	2008	2007	2008	2007
Short-term				
Floating rate	Ps 92,433	33,946	2.2%	5.8%
Fixed rate	2,837	2,311	9.1%	5.2%
	95,270	36,257		
Long-term				
Floating rate	60,209	137,992	3.8%	5.2%
Fixed rate	102,615	42,662	3.7%	4.9%
	162,824	180,654		
	Ps258,094	216,911		

	2008				2007			
Currency	Short-term	Long-term	Total	Effective rate [1]	Short-term	Long-term	Total	Effective rate [1]
Dollars	Ps78,653	94,909	173,562	2.7%	Ps 25,383	117,277	142,660	5.4%
Pesos	6,201	23,197	29,398	5.6%	6,278	25,291	31,569	5.1%
Euros	5,838	42,835	48,673	4.1%	4,280	34,690	38,970	5.0%
Japanese yen	2,924	1,676	4,600	1.6%	—	2,974	2,974	1.6%
Pounds sterling	797	195	992	4.7%	271	402	673	5.9%
Other currencies	857	12	869	1.5%	45	20	65	4.0%
	Ps95,270	162,824	258,094		Ps36,257	180,654	216,911	

[1] Represents the weighted average effective interest rate and includes the effects of interest rate swaps and derivative instruments that exchange interest rates and currencies (note 11C).

2008	Short-term	Long-term	2007	Short-term	Long-term
Bank loans			**Bank loans**		
Lines of credit in Mexico	Ps 8,215	—	Lines of credit Mexico	Ps 1,529	—
Lines of credit in foreign countries	28,054	—	Lines of credit in foreign countries	14,751	—
Syndicated loans, 2009 to 2012	—	94,189	Syndicated loans, 2008 to 2012	—	98,016
Other bank loans, 2009 to 2013	—	66,296	Other bank loans, 2008 to 2016	—	41,147
	36,269	160,485		16,280	139,163
Notes payable			**Notes payable**		
Euro medium-term notes, 2009 to 2014	—	18,130	Euro medium-term notes, 2008 to 2014	—	15,010
Medium-term notes, 2009 to 2017	—	38,134	Medium-term notes, 2008 to 2017	—	37,585
Other notes payable	1,642	3,434	Foreign commercial paper programs	—	2,239
	1,642	59,698	Other notes payable	2,416	4,218
Total bank loans and notes payable	37,911	220,183		2,416	59,052
Current maturities	57,359	(57,359)	Total bank loans and notes payable	18,696	198,215
			Current maturities	17,561	(17,561)
	Ps95,270	162,824		Ps 36,257	180,654

As of December 31, 2008, CEMEX has short-term debt of approximately Ps95,270 (US$6,934). As mentioned in note 23, on January 27, 2009, CEMEX and its creditors agreed to extend the term of a portion of such short-term debt. Considering an exchange rate of 13.74 pesos per dollar as of December 31, 2008, approximately Ps27,288 (US$1,986) of such short-term debt as of the closing of 2008 will mature in 2010, while approximately Ps14,537 (US$1,058) will mature in 2011.

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On June 2, 2008, CEMEX, through one of its subsidiaries, closed two US$525 facilities with a group of banks. Upon origination, each facility allowed the principal amount to be automatically extended for consecutive six months periods indefinitely after a period of three years, including an option of CEMEX to defer interest at any time (with certain limitations). The facilities were treated as equity instruments, in the same manner as CEMEX's outstanding perpetual debentures described in note 15D. In December 2008, as a result of negotiations with banks intended to obtain certain modifications in the credit contracts related to other debt transactions, CEMEX exercised the option to convert these two US$525 facilities into credit contracts without the option to defer interest and the payment of principal under such facilities, which eliminated the equity treatment prospectively. As of December 31, 2008, the nominal amount of these facilities of US$1,050 (Ps14,427) is included within debt in the balance sheet and mature in 2011.

The most representative exchange rates for the financial debt as of the end of the year and as of February 6, 2009 are as follows:

	As of February 6, 2009	2008	2007
Mexican pesos per dollar	14.21	13.74	10.92
Japanese yen per dollar	91.94	90.75	111.53
Euros per dollar	0.7723	0.7154	0.6854
Pounds sterling per dollar	0.6755	0.6853	0.5034

Changes in consolidated debt during 2008, 2007 and 2006 are as follows:

	2008	2007	2006
Debt at beginning of year	Ps216,911	88,331	119,015
Proceeds from new credits	59,568	206,690	37,199
Debt repayments	(63,278)	(84,412)	(63,182)
Increase (decrease) from business combinations	(776)	13,943	551
Foreign currency translation and inflation effects	45,669	(7,641)	(5,252)
Debt at end of year	Ps 258,094	216,911	88,331

The maturities of consolidated long-term debt as of December 31, 2008 are as follows:

	2008
2010	Ps 26,964
2011	90,860
2012	17,526
2013	1,696
2014 and thereafter	25,778
	Ps162,824

As of December 31, 2007, there were short-term debt obligations amounting to US$1,477 (Ps16,129), classified as long-term debt considering that CEMEX has, according to the terms of the contracts, the ability and the intention to defer to long-term the payments under such obligations. As of December 31, 2008, there is no short-term debt classified as long-term debt.

As of December 31, 2008, CEMEX had the following lines of credit, both committed and subject to the banks' availability, at annual interest rates ranging between 0.99% and 15.5%, depending on the negotiated currency:

	Lines of credit	Available
Revolving credit facilities (US$700)	Ps 9,618	—
Multi-currency revolving credit facility (US$1,200)	16,488	—
Other lines of credit in foreign subsidiaries	140,155	2,933
Other lines of credit from banks	12,421	—
	Ps178,682	2,933

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Covenants

Most debt contracts of CEMEX, S.A.B. de C.V. contain restrictive covenants calculated on a consolidated basis requiring, among others, the compliance with financial ratios, mainly: a) the ratio of net debt to operating EBITDA ("leverage ratio"); and b) the ratio of operating EBITDA to financial expense ("coverage ratio"). As a result of modifying some clauses in the credit contracts agreed between CEMEX and its creditors, the leverage to operating flow ratio of 3.5 times remained without effect as of December 31, 2007, being reactivated on September 30, 2008, a date on which CEMEX was in compliance. Afterwards, on December 19, 2008, CEMEX and its creditors agreed new modifications to the credit contracts, including changes to the calculation formula and the increase to the limit of the net debt to operating EBITDA ratio to 4.5 times for December 31, 2008 and March 31, 2009, increasing to 4.75 times in June 30, 2009, decreasing to 4.5 times at the end of September and December 2009, decreasing to 4.25 times for the closing of March and June 2010, decreasing to 4 times on September 30, 2010, decreasing to 3.75 times at the end of December 2010, and March and June 2011 and returning to 3.5 times on September 30, 2011 and thereafter. In the same way, CEMEX and its creditors agreed to modify the credit contracts of its subsidiary in Spain to increase the net debt to operating EBITDA ratio, which did not include certain maturities of such subsidiary during the first months of 2009 in which cases CEMEX obtained from its creditors the required waivers. As of December 31, 2008, 2007 and 2006, considering the amendments to the credit contracts and the waivers obtained, CEMEX S.A.B. de C.V. and its subsidiaries were in compliance with the restrictive covenants imposed by its debt contracts.

Financial ratios are calculated according to formulas established in the debt contracts using definitions that differ from terms defined under MFRS. These financial ratios require in most cases pro forma adjustments. The main consolidated financial ratios as of December 31, 2008, 2007 and 2006 were as follows:

Consolidated financial ratios		2008	2007	2006
Net debt to operating EBITDA ratio [1, 2]	**Limit**	=< 4.5	=< 3.5	=< 3.5
	Calculation	4.0	3.54	1.39
Operating EBITDA to financial expenses ratio [3]	**Limit**	> 2.5	> 2.5	> 2.5
	Calculation	4.9	5.8	8.5

[1] Net debt to operating EBITDA ratio is calculated dividing net debt by pro forma operating EBITDA for the last twelve months as of the calculation date. According to the debt contracts, net debt is calculated considering total debt plus the negative fair value or minus the positive fair value of cross currency swap derivative financial instruments associated with debt, minus cash and temporary investments. As noted above, compliance with this ratio was waived for the period ended December 31, 2007.

[2] For purposes of the leverage ratio, the pro forma operating EBITDA represents, calculated in pesos, operating income plus depreciation and amortization, plus financial income, plus the portion of operating EBITDA (operating income plus depreciation and amortization) referring to such twelve-month period of any significant acquisition made in the period before its consolidation in CEMEX's financial statements, minus operating EBITDA (operating income plus depreciation and amortization) referring to such twelve-month period of any significant disposal that had already been liquidated. Beginning with the calculation as of December 31, 2008, the monthly consolidated amounts in pesos are translated into U.S. dollars using the respective monthly closing exchange rates, and are translated again into pesos at the closing exchange rate as of the balance sheet date. Until September 30, 2008, calculations were determined with constant pesos coming from the financial statements.

[3] The operating EBITDA to financial expenses ratio is calculated, considering the peso amounts arising from the financial statements, by dividing the pro forma operating EBITDA by the financial expense for the last twelve months as of the calculation date. For purposes of the coverage ratio, for all the periods, pro forma operating EBITDA represents operating income plus depreciation and amortization for the last twelve months, plus financial income.

B) FAIR VALUE OF ASSETS, FINANCIAL INSTRUMENTS AND DERIVATIVE FINANCIAL INSTRUMENTS

CEMEX's carrying amounts of cash, trade accounts receivable, other accounts receivable, trade accounts payable, other accounts payable and accrued expenses, as well as short-term debt, approximate their corresponding estimated fair values due to the short-term maturity and revolving nature of these financial assets and liabilities. Temporary investments (cash equivalents) and long-term investments are recognized at fair value, considering quoted market prices for the same or similar instruments.

The estimated fair value of long-term debt is either based on estimated market prices for such or similar instruments, considering interest rates currently available for CEMEX to negotiate debt with the same maturities, or determined by discounting future cash flows using interest rates currently available to CEMEX. The carrying amounts of long-term debt (including current maturities) and their respective fair values as of December 31, 2008 are as follows:

	Carrying amount	Fair value
Bank loans	Ps 160,485	160,302
Notes payable	59,698	73,670

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The estimated fair value of derivative instruments fluctuates over time and is determined by measuring the effect of future interest rates, exchange rates, prices of natural gas and share prices according to the yield curves shown in the market as of the balance sheet date. These values should be analyzed in relation to the fair values of the underlying transactions and as part of CEMEX's overall exposure attributable to fluctuations in interest rates and foreign exchange rates. The notional amounts of derivative instruments do not necessarily represent amounts exchanged by the parties, and consequently, there is no direct measure of CEMEX's exposure to the use of these derivatives. The amounts exchanged are determined based on the basis of the notional amounts and other terms included in the derivative instruments.

During October 2008, companies experienced a period of greater volatility in the global securities and exchange markets, as part of the strengthening of the financial institutions' crisis which started in 2007. The crisis affected the availability of financing and the companies' perceived risks, resulting from expectations of entering into an extended economic recession. Particularly in Mexico, during the period from October 1 to 16, 2008, the peso depreciated against the dollar approximately 19%, representing two thirds of the total depreciation of the peso vis-à-vis the dollar during the full year 2008, which was approximately 26%. Meanwhile, the price of CEMEX's CPO decreased 58% in that same period. These two factors significantly and negatively affected the valuation of CEMEX's derivative instruments portfolio, primarily the valuation of foreign exchange forward contracts that hedged CEMEX's net investment in foreign subsidiaries and cross currency swaps related to debt, as well as forward contracts in CEMEX's own shares that hedged the exercise of options under the executive stock option programs, among others. In the aforementioned period from October 1 to 16, 2008, changes in the fair value of the derivative instruments portfolio represented losses of approximately US$976 (Ps13,410), which significantly affected the availability of CEMEX's lines of credit and triggered the need to make deposits in margin accounts with the counterparties. As of October 31, 2008, such deposits amounted to US$750 (Ps10,305), negatively affecting CEMEX's liquidity. In light of a very uncertain economic outlook and the expectation of further worsening of the economic variables, CEMEX decided to neutralize all of its derivative instruments positions that were sensitive to fluctuations of the exchange rate of the peso vis-à-vis foreign currencies and the price of its shares.

In order to close those positions and considering contractual limitations to settle the contracts before their maturity date, between October 14 and 16, 2008, CEMEX with the same counterparties entered into new derivative instruments representing the opposite position to the exposure resulting from fluctuations of the economic variables included in the original derivative instruments. This means that from the date of the negotiation of the new opposite positions, any changes in the fair value of the original instruments is effectively offset by an equivalent inverse amount generated by the new positions. For purposes of disclosure in the notes to the financial statements, beginning with their negotiation, CEMEX has designated the portfolio of original and opposite derivative positions as "Inactive derivative financial instruments". Likewise, CEMEX has designated as "Active derivative financial instruments" the derivative instruments portfolio in which CEMEX is still exposed to changes in fair value. For disclosure purposes in these financial statements, both portfolios, active and inactive, are presented separately.

As of December 31, 2008, the balance of deposits in margin accounts with financial institutions that guarantee CEMEX obligations through derivative financial instruments amounted to US$570 (Ps7,382), of which US$372 (Ps5,111) was related to active positions and US$198 (Ps2,720) to inactive positions. As detailed in note 2F, pursuant to balance net settlement agreements included in the derivative instrument contracts, the deposits in margin accounts have been offset within CEMEX's liabilities with the counterparties.

For the year ended December 31, 2008, the caption "Results from financial instruments" includes the losses related with the recognition of changes in fair values of the derivative instruments portfolio during the period, for both active and inactive positions.

C) ACTIVE DERIVATIVE FINANCIAL INSTRUMENTS

The accounting policy to recognize derivative instruments is described in note 2L. As mentioned above, CEMEX presents in this section those derivative instruments for which CEMEX is exposed to changes in fair values. As of December 31, 2008 and 2007, the nominal amounts and the fair values of the portfolio of derivative instruments related to assets are as follows:

	2008		2007	
(U.S. dollars millions)	Nominal	Fair value	Nominal	Fair value
I. Derivative financial instruments related to debt	US$16,416	(4)	9,103	233
II. Other derivative financial instruments	877	(36)	613	(2)
III. Derivative financial instruments related to equity instruments	3,520	222	7,910	130
	US$ 20,813	182	17,626	361

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I. ACTIVE DERIVATIVE FINANCIAL INSTRUMENTS RELATED TO DEBT

With the intention of: a) changing the profile of the interest rates originally negotiated in a portion of the debt; b) changing the profile of the interest rates and currencies of debt originally negotiated in pesos and dollars; and/or c) changing the mix of currencies of its debt, CEMEX has negotiated interest rate swaps, cross currency swaps ("CCS"), as well as foreign exchange forward contracts. As of December 31, 2008 and 2007, the notional amounts, fair value and characteristics of these derivative financial instruments are summarized as follows:

	2008		2007	
(U.S. dollars millions)	Notional amount	Fair value	Notional amount	Fair value
Interest rate swaps	US$15,319	(18)	4,473	68
Cross currency swaps	528	(57)	2,532	126
Foreign exchange forward contracts	569	71	2,098	39
	US$16,416	(4)	9,103	233

I.1 Interest rate swap contracts

Changes in fair value of interest rate swaps, recognized in the results for the period, generated losses of US$210 (Ps2,885) in 2008 and US$28 (Ps306) in 2007, and a gain of US$1 (Ps12) in 2006. Information about these instruments as of December 31, 2008 and 2007 is as follows:

	2008					
(U.S. dollars millions)	Notional amount	Fair value	Effective rate	Maturity	CEMEX receives*	CEMEX pays*
Short-term debt in US$	188	(1)	4.8%	February 2009	LIBOR	Dollar 4.8%
Short-term debt in US$	3,000	(18)	3.0%	June 2009	LIBOR	Dollar 3.0%
Long-term debt in US$ [1]	8,500	(78)	2.7%	June 2011	Cap dollar 3.5%	Cap dollar 1.9%
Long-term debt in €	1,258	100	4.5%	March 2014	Euro 4.8%	EURIBOR* plus 78bps
Long-term debt in US$ [2]	500	(25)	5.0%	April 2011	LIBOR plus 133bps	Dollar 5.0%
Long-term debt in € **3**	1,174	10	4.3%	December 2011	EURIBOR	Euro 4.3%
Long-term debt in US$ [4]	70	(13)	2.8%	March 2011	Pesos 8.7%	LIBOR plus 19bps
Long-term debt in US$ [4]	48	(1)	1.6%	May 2009	TIIE minus 30bps	LIBOR
Long-term debt in US$ [4]	136	(15)	3.0%	April 2012	Pesos 11.5%	Dollar 3.0%
Long-term debt in US$ [4]	295	(51)	1.4%	September 2012	CETES plus 49bps	LIBOR plus 27bps
Long-term debt in US$ [4]	150	(11)	2.8%	June 2020	LIBOR	¥ LIBOR
	15,319	(103)				
Deposits in margin accounts	—	85				
	15,319	(18)				

	2007					
(U.S. dollars millions)	Notional amount	Fair value	Effective rate	Maturity	CEMEX receives	CEMEX pays
Long-term debt in US$	188	—	5.0%	February 2008	LIBOR	Dollar 4.7%
Long-term debt in US$	59	2	5.5%	January 2008	LIBOR plus 475bps	LIBOR plus 50bps
Long-term debt in US$	1,688	3	5.1%	August 2010	LIBOR	Dollar 5.0%
Long-term debt in € [3]	1,313	42	4.9%	March 2014	Euro 4.8%	EURIBOR* plus 78bps
Long-term debt in €	1,225	21	4.7%	June 2011	EURIBOR*	Euro 4.3%
	4,473	68				

* LIBOR represents the *London Inter-Bank Offered Rate*, an international reference for debt denominated in U.S. dollars. EURIBOR is the equivalent rate for debt denominated in Euros. At December 31, 2008 and 2007, LIBOR was 1.43% and 4.70%, respectively, while the EURIBOR was 2.89% in 2008 and 4.71% in 2007. The contraction "bps" means basis points. One basis point is 0.01 percent.

1 The effective rate is the average of the cap rate of 3.5% and the floor rate of 1.9%.

2 From these contracts, notional amounts of US$400 are accounted as cash flow hedges, recognizing the effects in the stockholders' equity, representing a loss of US$25 in 2008. These instruments have the same critical terms as of those of the primary position.

3 The rate that CEMEX pays in this instrument is limited to 4.9%.

4 In connection with the closing of positions with exposure to fluctuations of the exchange rate of the peso to the dollar described above in connection with these CCS, CEMEX negotiated currency forward contracts with opposite exposure to the original positions, eliminating the exchange of notional amounts and continuing the exchange of interest rates, which are denominated as basis swaps.

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I.2 Cross currency swap contracts

As of December 31, 2008 and 2007, in connection with the fair value of the CCS, CEMEX recognized a net liability of US$57 (Ps783) and a net asset of US$126 (Ps1,376), respectively. In 2008, 2007 and 2006, changes in the fair value of CCS, recognized in the results of the period, generated losses of US$216 (Ps2,968), US$28 (Ps306) and US$58 (Ps679), respectively. Information about these derivative instruments at December 31, 2008 and 2007 is as follows:

	2008					
(U.S. dollars millions)	Notional amount	Fair value	Effective rate	Maturity	CEMEX receives*	CEMEX pays*
Short-term						
Exchange Ps1,000 to US$	96	(24)	0.7%	June 2009	TIIE minus 30bps	LIBOR
Exchange UDIs 425 to US$	148	(16)	3.0%	January 2009	UDIs 6.5%	LIBOR minus 20bps
Exchange Ps647 to US$	50	(3)	3.8%	April 2009	Pesos 9.3%	LIBOR
	294	(43)				
Long-term						
Exchange Ps2,500 to US$	234	(47)	2.1%	March 2011	CETES plus 59bps	LIBOR minus 11bps
	234	(47)				
	528	(90)				
Deposits in margin accounts	—	33				
	528	(57)				

	2007					
(U.S. dollars millions)	Notional amount	Fair value	Effective rate	Maturity	CEMEX receives*	CEMEX pays*
Short-term						
Exchange UDIs 341 to US$	110	13	8.1%	January 2008	UDIs 8.9%	LIBOR plus 278bps
Exchange UDIs 432 to US$	136	25	4.8%	December 2008	UDIs 5.9%	Dollar 4.8%
Exchange Ps2,000 to US$	184	(1)	5.1%	June 2008	TIIE minus 32bps	LIBOR
Exchange Ps800 to US$	74	—	6.6%	October 2008	CETES plus 145bps	LIBOR plus 136bps
	504	37				
Long-term						
Exchange UDIs 425 to US$	148	13	5.4%	January 2009	UDIs 6.5%	LIBOR minus 20bps
Exchange Ps750 to US$	70	1	5.3%	March 2011	Pesos 8.7%	LIBOR minus 19bps
Exchange Ps1,500 to US$	136	29	3.0%	April 2012	Pesos 11.5%	Dollar 3.0%
Exchange Ps2,140 to US$	193	9	3.3%	April 2009	CETES plus 99bps	Dollar 3.3%
Exchange Ps7,150 to US$	664	15	4.8%	September 2011	CETES plus 52bps	LIBOR minus 20bps
Exchange Ps8,950 to US$	817	22	5.1%	September 2012	TIIE plus 10bps	LIBOR minus 3bps
	2,028	89				
	2,532	126				

* TIIE represents the Interbank Offering Rate in Mexico. UDIs are investment units indexed to inflation in Mexico, whose closing quotation at the end of 2008 was 4.18 pesos per UDI and at the end of 2007 was 3.93 pesos per UDI. CETES are public debt instruments issued by the Mexican government. TIIE was 8.69% at the end of 2008 and 7.93% at the end of 2007, and the CETES yield was 7.96% at the end of 2008 and 7.46% at the end of 2007.

I.3 Foreign exchange forward contracts related to debt

As of December 31, 2008 and 2007, a summary of derivative instruments related to debt is as follows:

	2008		2007	
(U.S. dollars millions)	Notional amount	Fair value	Notional amount	Fair value
Exchange from pesos to dollars	US$ 240	(12)	315	(2)
Exchange from dollars to euros	—	—	1,447	11
Exchange from pounds sterling to dollars	75	1	82	(1)
Exchange from dollars to Japanese yen	254	82	254	31
	US$ 569	71	2,098	39

Changes in the fair value of these contracts were recognized in the results of the corresponding period, since they were not designated as hedges.

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Between April and August 2007, in connection with the acquisition of Rinker, CEMEX negotiated foreign exchange forward contracts in order to hedge the variability in a portion of the cash flows associated with exchange fluctuations between the Australian dollar and the U.S. dollar, the currency in which CEMEX obtained financing. The notional amount of these contracts reached approximately US$5,663 in June 2007. Resulting from changes in the fair value of these contracts, upon settlement, CEMEX realized a gain of approximately US$137 (Ps1,496), which was recognized in the results of the period in 2007.

II. OTHER ACTIVE DERIVATIVE FINANCIAL INSTRUMENTS

As of December 31, 2008 and 2007, outstanding derivative instruments, other than those related to debt and to equity, are as follows:

	2008		2007	
(U.S. dollars millions)	Notional amount	Fair value	Notional amount	Fair value
Equity forwards in third parties' shares [1]	US$ 258	(12)	—	—
Forward contracts related to indexes [2]	40	(5)	—	—
Other foreign exchange instruments [3]	371	(73)	273	(18)
Derivative related to energy projects [4]	208	54	219	14
Equity forwards in CEMEX's own shares [5]	—	—	121	2
	US$ 877	(36)	613	(2)

[1] In connection with the sale of shares of AXTEL (note 8A) and in order to benefit from the future increase in the prices of such entity, on March 31, 2008, CEMEX entered into a forward contract convertible to cash over the price of 119 million CPOs of AXTEL with maturity in April 2011. Fair value includes a deposit in margin accounts for US$184 (Ps2,528) which is presented net within liabilities, as a result of net settlement agreements with the counterparty. Changes in the fair value of this instrument generated a loss in the 2008 income statement of approximately US$196 (Ps2,693).

[2] During 2008, CEMEX negotiated forward derivative instruments over the TRI (Total Return Index) of the Mexican Stock Exchange, maturing in October 2009, through which CEMEX maintains exposure to increases or decreases of such index. TRI expresses the market return on stocks based on market capitalization of the issuers comprising the index.

[3] As of December 31, 2008 and 2007, CEMEX had foreign exchange forward contracts, not designated as hedges, whose valuation effects are recognized in the income statement for the period.

[4] In connection with agreements entered into by CEMEX for the acquisition of electric energy in Mexico (note 19C), as of December 31, 2008 and 2007, CEMEX had an interest rate swap (exchanging a fixed for floating interest rate), maturing in September 2022. During the life of the swap and based on its notional amount, CEMEX pays a LIBO rate and receives a 5.40% fixed rate. The change in the fair value of this instrument generated a gain in the 2008 income statement of approximately US$40 (Ps550).

[5] As of December 31, 2007, CEMEX had a forward contract over the price of approximately 47 million CPOs to hedge the exercise of options in the executive stock option program (note 16). During 2008, the hedge was increased to approximately 81 million CPOs with a nominal amount of US$206. During October 2008, a significant decrease in the price of CPOs originated the anticipated settlement of these contracts, which generated a loss of approximately US$153 (Ps2,102), recognized in the results for the period.

III. ACTIVE DERIVATIVE FINANCIAL INSTRUMENTS RELATED TO EQUITY INSTRUMENTS

As of December 31, 2008 and 2007, information about these instruments is as follows:

	2008		2007	
(U.S. dollars millions)	Notional amount	Fair value	Notional amount	Fair value
Options in CEMEX's own shares	US$ 500	(44)	—	—
Derivatives related to perpetual debentures	3,020	266	3,065	202
Foreign exchange forward contracts	—	—	4,845	(72)
	US$ 3,520	222	7,910	130

Options in CEMEX's own shares

In June 2008, CEMEX entered into a structured transaction of US$500 (Ps6,870) paying an interest coupon of LIBOR plus 132.5 bps, which includes options based on the price of CEMEX's ADSs, whereby if the ADS price exceeds 32 dollars the net interest rate in this debt issuance would be zero. This rate increases as the price of the ADSs decrease, to a maximum of 12% when the price per ADS is below 23 dollars. CEMEX values the options based on the price of its ADSs at fair value, recognizing gains and losses in the income statement. The fair value includes a deposit in margin accounts of US$69 (Ps948) at December 31, 2008, which was offset within CEMEX's liabilities as a result of a net settlement agreement with the counterparty.

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Foreign exchange forward contracts

As of December 31, 2007, in order to hedge financial risks associated with variations in foreign exchange rates of certain net investments in foreign countries denominated in euros and dollars to the peso, and consequently reducing volatility in the value of stockholders' equity in CEMEX's reporting currency, CEMEX had negotiated foreign exchange forward contracts with different maturities until 2010. Changes in the estimated fair value of these instruments are recorded in stockholders' equity as part of the foreign currency translation effect. In October 2008, in connection with the closing process of positions exposed to fluctuations in exchange rates to the peso previously described, CEMEX entered into foreign exchange forward contracts with opposite exposure to the original contracts. As a result of these new positions, changes in the fair value of the original instruments will be offset by an equivalent inverse amount generated by these new derivative positions. The designation of the original positions as hedges of CEMEX's net exposure on investments in foreign subsidiaries in stockholders' equity ended with the negotiation of the new opposite derivative positions in October 2008. Therefore, changes in fair value of original positions and new opposite derivative positions are recognized prospectively in the income statement within inactive derivative financial instruments (note 11D). Valuation effects were recognized within comprehensive income until the hedge designation was revoked, adjusting the cumulative effect for translation of foreign subsidiaries.

Interest rate and foreign exchange derivative instruments related to perpetual debentures

In connection with the issuance of perpetual debentures (note 15D), as of December 31, 2008 and 2007, there are CCS associated with such instruments for approximately US$3,020 (Ps41,495) and US$3,065 (Ps33,470), respectively, through which CEMEX changes the risk profile associated with interest rates and foreign exchange rates from the U.S. dollar and the euro to the yen.

	2008					
(U.S. dollars millions)	Notional amount	Fair value	Effective rate	Maturity	CEMEX receives	CEMEX pays
C-10 € 730 to ¥119,085 1	1,020	101	4.1%	June 2017	Euro 6.3%	¥ LIBOR * 3.1037
C-8 US$750 to ¥90,193 2	750	38	4.1%	December 2014	Dollar 6.6%	¥ LIBOR * 3.5524
C-5 US$350 to ¥40,905 3	350	16	4.1%	December 2011	Dollar 6.2%	¥ LIBOR * 4.3531
C-10 US$900 to ¥105,115 4	900	111	4.1%	December 2016	Dollar 6.7%	¥ LIBOR * 3.3878
	3,020	266				

	2007					
(U.S. dollars millions)	Notional amount	Fair value	Effective rate	Maturity	CEMEX receives	CEMEX pays
C-10 € 730 to ¥119,085	1,065	81	3.6%	June 2017	Euro 6.3%	¥ LIBOR * 3.1037
C-8 US$750 to ¥90,193	750	52	4.0%	December 2014	Dollar 6.6%	¥ LIBOR * 3.5524
C-5 US$350 to ¥40,905	350	13	5.1%	December 2011	Dollar 6.2%	¥ LIBOR * 4.3531
C-10 US$900 to ¥105,115	900	56	4.0%	December 2016	Dollar 6.7%	¥ LIBOR * 3.3878
	3,065	202				

* The symbol "¥" represents the Japanese yen. ¥ LIBOR represents the *London Inter-Bank Offered Rate*, which is the interest rate for transactions denominated in Japanese yen in international markets.

Each CCS includes an extinguishable swap, which provides that if the relevant perpetual debentures are extinguished for stated conditions but before the maturity of the CCS, such CCS would be automatically extinguished, with no amounts payable by the swaps counterparties. In addition, in order to eliminate variability during the first two years in the yen denominated payments due under the CCS until 2010, CEMEX entered into foreign exchange forwards for notional amounts of US$196 as of December 31, 2008 and US$273 as of December 31, 2007, under which CEMEX pays U.S. dollars and receives payments in yen. Changes in fair value of all the derivative instruments associated with the perpetual debentures are recognized in the income statement.

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D) INACTIVE DERIVATIVE FINANCIAL INSTRUMENTS

As explained in note 11B, in order to eliminate the exposure in positions of derivative instruments sensitive to fluctuations in the foreign exchange rate of the peso against foreign currencies and to the price of its own shares and considering contractual limitations to extinguish contracts before their maturity date, between October 14 and 16, 2008, CEMEX negotiated new derivative instruments with the same counterparties. These instruments represent the opposite position of the exposure to fluctuations in the economic variables included in the original derivative instruments, effectively eliminating the volatility of these instruments in the income statement. As of December 31, 2008, derivative instruments involved in this restructuring are disclosed as inactive positions and their valuation effects are presented within "Other financial obligations" in the balance sheet.

As of December 31, 2008, related to net settlement agreements included in CEMEX's derivative instruments contracts, the balance of deposits in margin accounts of US$198 (Ps2,720) of inactive positions was offset within CEMEX's liabilities with its counterparties. As of December 31, 2008, inactive derivative instruments are presented as follows:

	2008	
(U.S. dollars millions)	Notional amount*	Fair value
Short-term CCS original derivative position 1	US$ 460	(48)
Short-term CCS opposite derivative position	460	18
Long-term CCS original derivative position 2	1,299	(257)
Long-term CCS opposite derivative position	1,299	58
		(229)
Deposit in margin accounts		126
		(103)
Short-term foreign exchange forward contracts original position 3	2,616	(599)
Short-term foreign exchange forward contracts opposite position	2,616	270
Long-term foreign exchange forward contracts original position 4	110	(30)
Long-term foreign exchange forward contracts opposite position	110	15
		(344)
Deposit in margin accounts		72
		(272)
CCS related to original debt position 5	900	2
Forward contracts related to opposite debt position	900	(12)
		(10)
	US$	(385)

* Notional amounts of the original derivative positions and the opposite derivative positions are not aggregated, considering that the effects of one instrument are proportionally inverse to the effect of the other instrument, and therefore, eliminated.

1 The original derivative position refers to short-term CCS that exchanged Ps4,938 for US$460, receiving an average rate of 9.0% in Mexican pesos and paying a rate of 2.3% in dollars, whose last maturity is in May 2009. In the opposite derivative position, with the same maturities, the CCS exchanged US$460 for Ps4,938, receiving a rate of 2.3% in dollars and paying an average rate of 9.0% in Mexican pesos.

2 The original derivative position refers to long-term CCS that exchanged Ps628 UDIs and Ps11,450 for US$1,299, receiving an average rate of 4.0% in UDIs and 8.9% in pesos, and paying a rate of 1.8% in dollars, whose last maturity is in November 2017. In the opposite derivative position, with the same maturities, the CCS exchanged US$1,299 for Ps628 UDIs and Ps11,450, receiving a rate of 1.8% in dollars and paying an average rate of 4.0% in UDIs and 8.9% in pesos.

3 The original derivative position refers to short-term foreign exchange forward contracts related to hedges of stockholders' equity for changes in the exchange rates of some foreign investments and includes a notional amount of US$1,759 of peso/euro contracts and US$857 of peso/dollar contracts, whose last maturity is in September 2009. In the opposite derivative position, with the same maturities, a notional amount of US$1,759 is included in the euro/peso contracts and US$857 in the dollar/peso contracts.

4 The original derivative position refers to long-term foreign exchange forward contracts related to hedges of stockholders' equity, as above. They refer to forward peso/euro contracts, whose last maturity is in January 2010. In the opposite derivative position, euro/peso forward contracts were negotiated for a notional amount of US$110.

5 The original derivative position refers to CCS with maturity in June 2011 which exchanged dollar for Japanese yen, receiving a rate in dollars of 2.8113% and paying a rate in Japanese yen of 1.005%. In the opposite derivative position, for the same notional amount and until maturity, interest rate flows are exchanged for a Japanese yen rate of 1.005% and paying a rate in dollars of 2.8113%.

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12. OTHER CURRENT AND NON-CURRENT LIABILITIES

As of December 31, 2008 and 2007, other current accounts payable and accrued expenses are as follows:

	2008	2007
Provisions	Ps 13,017	10,504
Other accounts payable and accrued expenses	6,497	4,715
Tax payable	7,306	4,631
Advances from customers	2,195	1,466
Interest payable	1,268	1,665
Current liabilities for valuation of derivative instruments	1,135	425
Dividends payable	44	65
	Ps 31,462	23,471

The caption "Other accounts payable and accrued expenses" includes approximately Ps772 of the reclassification of current liabilities of Austria and Hungary. Current provisions primarily consist of employee benefits accrued at the balance sheet date, insurance payments, and accruals related to legal and environmental assessments expected to be settled in the short-term (note 20). These amounts are revolving in nature and are expected to be settled and replaced by similar amounts within the next 12 months. The increase in current provision includes the amounts pending to be settled associated with the cost-reduction program started in September 2008. The program aimed to reduce costs in CEMEX's worldwide network and includes closing of installed capacity and workforce reductions.

Other non-current liabilities include the best estimate of cash flows with respect to diverse issues where CEMEX is determined to be responsible and which are expected to be settled over a period greater than 12 months. The detail of this caption as of December 31, 2008 and 2007 is as follows:

	2008	2007
Asset retirement obligations [1]	Ps 1,830	2,000
Remediation and environmental liabilities [2]	4,785	4,087
Accruals for legal assessments and other responsibilities [3]	4,102	1,085
Non-current liabilities for valuation of derivative instruments	8,777	3,432
Other non-current liabilities and provisions	4,250	5,558
	Ps 23,744	16,162

[1] Provisions for asset retirement include future estimated costs for demolition, cleaning and reforestation of production sites at the end of their operation, which are initially recognized against the related assets and are depreciated over their estimated useful life.

[2] Provisions for remediation and environmental liabilities include future estimated costs arising from legal or constructive obligations, related to cleaning, reforestation and other remedial actions, in order to remediate damage caused to the environment. The expected average period to settle these obligations is greater than 15 years.

[3] Provisions for legal claims and other responsibilities include items related to tax contingencies.

"Other non-current liabilities and provisions" presented in the table above include approximately Ps1,772 of the reclassification of non-current liabilities of Austria and Hungary. As of December 31, 2008 and 2007, the most significant legal proceedings that gave rise to a portion of the carrying amount of CEMEX's other non-current liabilities and provisions are detailed in note 20.

Changes in consolidated other non-current liabilities for the years ended December 31, 2008 and 2007 are the following:

	2008	2007
Balance at beginning of period	Ps 16,162	14,725
Current period additions due to new obligations or increase in estimates	9,479	1,797
Current period releases due to payments or decrease in estimates	(2,276)	(1,906)
Additions due to business combinations	64	2,098
Reclassification from current to non-current liabilities, net	(438)	(5)
Foreign currency translation and inflation effects	753	(547)
Balance at end of period	Ps 23,744	16,162

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13. EMPLOYEE BENEFITS

Defined contribution plans

As mentioned in note 2N, the costs of defined contribution pension plans are recognized in the period in which the funds are transferred to the employees' investment accounts, without generating future obligations. Costs of defined contribution pension plans for the years ended December 31, 2008, 2007 and 2006 were approximately Ps708, Ps424 and Ps344, respectively.

Defined benefit plans

Costs of defined benefit pension plans and other post-retirement benefits, such as health care benefits, life insurance and seniority premiums, as well as termination benefits not associated with a restructuring event, are recognized in the income statement as employees' services are rendered, based on actuarial calculations of the benefits' present value. The reconciliation of the actuarial benefits obligations, pension plan assets, and liabilities recognized in the balance sheet as of December 31, 2008 and 2007 are presented as follows:

	Pensions		Other benefits		Total	
	2008	2007	2008	2007	2008	2007
Change in benefits obligation:						
Projected benefit obligation at beginning of year	Ps 29,803	33,228	1,868	1,972	31,671	35,200
Service cost	404	848	124	117	528	965
Interest cost	1,714	1,591	117	87	1,831	1,678
Actuarial results	(1,423)	(3,280)	(99)	(83)	(1,522)	(3,363)
Employee contributions	81	73	—	—	81	73
Additions through business combinations	14	750	—	15	14	765
Foreign currency translation and inflation effects	493	(1,381)	33	(96)	526	(1,477)
Settlements and curtailments	(592)	(282)	(13)	2	(605)	(280)
Benefits paid	(1,651)	(1,744)	(196)	(146)	(1,847)	(1,890)
Projected benefit obligation at end of year	28,843	29,803	1,834	1,868	30,677	31,671
Change in plan assets:						
Fair value of plan assets at beginning of year	24,836	26,459	26	27	24,862	26,486
Return on plan assets	(3,880)	(51)	(4)	1	(3,884)	(50)
Foreign currency translation and inflation effects	104	(1,330)	—	—	104	(1,330)
Additions through business combinations	171	660	—	—	171	660
Employer contributions	833	928	193	145	1,026	1,073
Employee contributions	81	73	—	—	81	73
Settlements and curtailments	(622)	(68)	—	—	(622)	(68)
Benefits paid	(1,651)	(1,835)	(196)	(147)	(1,847)	(1,982)
Fair value of plan assets at end of year	19,872	24,836	19	26	19,891	24,862
Amounts recognized in the balance sheets:						
Funded status	8,971	4,967	1,815	1,842	10,786	6,809
Transition liability	(80)	(100)	(262)	(281)	(342)	(381)
Prior service cost and actuarial results	(3,992)	242	336	75	(3,656)	317
Accrued benefit liability	4,899	5,109	1,889	1,636	6,788	6,745
Additional minimum liability (note 10)	—	663	—	242	—	905
Net projected liability recognized	Ps 4,899	5,772	1,889	1,878	6,788	7,650

Starting in 2008, as a result of the adoption of new MFRS D-3, the requirement to recognize a minimum liability in those individual cases in which the actual benefit obligation less the plan assets (net actual liability) was lower than the net projected liability was eliminated. As of December 31, 2007, CEMEX recognized minimum liabilities against intangible assets for Ps905.

As of December 31, 2008 and 2007, the projected benefit obligation is derived from the following types of plans and benefits:

	2008	2007
Plans and benefits totally unfunded	Ps 2,431	2,349
Plans and benefits partially or totally funded	28,246	29,322
Projected benefit obligation ("PBO") at end of the period	Ps30,677	31,671

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For the years ended December 31, 2008, 2007 and 2006, the net periodic cost of pension plans, other post-retirement benefits and termination benefits are as follows:

	Pensions			Other benefits 1			Total		
	2008	2007	2006	2008	2007	2006	2008	2007	2006
Net periodic cost:									
Service cost	Ps 404	848	797	124	117	101	528	965	898
Interest cost	1,714	1,591	1,463	117	87	87	1,831	1,678	1,550
Actuarial return on plan assets	(1,624)	(1,569)	(1,572)	(2)	(1)	(2)	(1,626)	(1,570)	(1,574)
Amortization of prior service cost, transition liability and actuarial results	123	40	(16)	121	51	57	244	91	41
Loss (gain) for settlements and curtailments	33	(169)	—	(15)	—	—	18	(169)	—
	Ps 650	741	672	345	254	243	995	995	915

1 Includes the net periodic cost of termination benefits.

Based on new MFRS D-3, prior services and actuarial results related to pension plans and other post-retirement benefits are amortized during the estimated remaining years of service of the employees subject to these benefits. As of December 31, 2008, the approximate average years of service for pension plans is 11.8 years and 15.9 years for other post-retirement benefits. As mentioned in note 2N, upon adoption in 2008, MFRS D-3 required amortizing the transition liability, prior services and actuarial results accumulated as of December 31, 2007, recognized under the previous MFRS D-3 related to pensions, other post-retirement benefits and termination benefits, in a maximum period of five years. MFRS D-3 establishes that termination benefits generated after its adoption are recognized in the results of the period in which they are generated. The net cost of the period in 2008 includes the transition amortization established by the new MFRS D-3.

As of December 31, 2008 and 2007, plan assets are valued at their estimated fair value and consist of:

	2008	2007
Fixed-income securities	Ps 9,487	8,980
Marketable securities quoted in formal markets	3,951	12,941
Private funds and other investments	6,453	2,941
	Ps19,891	24,862

As of December 31, 2008, estimated future benefit payments for pensions and other post-retirement benefits during the next ten years are as follows:

	2008
2009	Ps 2,257
2010	2,184
2011	2,068
2012	2,134
2013	2,145
2014 – 2018	11,332

The most significant assumptions used in the determination of the net periodic cost are as follows:

	2008				2007			
	Mexico	United States	United Kingdom	Other countries 1	Mexico	United States	United Kingdom	Other countries 1
Discount rates	8.1%	6.2%	5.7%	4.2% - 9.8%	4.5%	6.2%	5.7%	4.2% - 9.8%
Rate of return on plan assets	9.7%	8.0%	6.3%	4.0% - 9.7%	6.0%	8.0%	6.1%	4.0% - 8.2%
Rate of salary increases	5.1%	3.5%	3.1%	2.2% - 5.1%	1.5%	3.5%	3.1%	2.2% - 4.8%

1 Range of rates.

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As of December 31, 2008 and 2007, the aggregate PBO for pension plans and other benefits and the plan assets by country are as follows:

	2008			2007		
	PBO	Assets	Deficit (Excess)	PBO	Assets	Deficit (Excess)
Mexico	Ps 3,148	894	2,254	Ps 3,207	1,868	1,339
United States	4,966	4,051	915	4,153	4,772	(619)
United Kingdom	16,389	12,976	3,413	18,727	16,305	2,422
Other countries	6,174	1,970	4,204	5,584	1,917	3,667
	Ps 30,677	19,891	10,786	Ps31,671	24,862	6,809

Other information related to employees' benefits at retirement

During 2008, CEMEX reduced its workforce subject to defined pension benefits in several countries including the United States and United Kingdom. In addition, the pension plan in Puerto Rico was frozen. These actions generated events of settlement and curtailment of obligations in the respective pension plans according to MFRS D-3. Therefore, changes in the plan liabilities and proportional parts of prior services and actuarial results pending to be amortized were recognized in the income statement for the period, which represented a loss of approximately Ps33.

The defined benefit plan in the United Kingdom has been closed to new participants since January 2004. Regulation in the United Kingdom requires entities to maintain plan assets in a level similar to that of the obligations; consequently, it is expected that CEMEX will make significant contributions to the United Kingdom's pension plans in the following years. As of December 31, 2008, the deficit in the funded status amounted to approximately Ps3,413. After reducing the deficits related to other post-retirement benefits, which are financed through normal operations, the deficit was approximately Ps3,093.

During 2007, the subsidiary of CEMEX in the United States changed its defined benefit plans, by means of which employees' benefits under such plans were frozen as of December 31, 2007, generating a settlement gain of approximately Ps169. In connection with the decision to freeze benefits under the U.S. defined benefit pension plans, the employees' benefits were increased through defined contribution plans. CEMEX considers that the changes in pension benefits will be a more attractive incentive to hire and retain personnel.

Information related to benefits upon termination

There are benefits paid to personnel pursuant to legal requirements upon termination of the working relationship, based on the years of service and the last salary received. The PBO of these benefits as of December 31, 2008 and 2007 was approximately Ps589 and Ps574, respectively.

Information related to other post-retirement benefits

In some countries, CEMEX has established health care benefits for retired personnel, limited to a certain number of years after retirement. As of December 31, 2008 and 2007, the PBO related to these benefits was approximately Ps1,116 and Ps1,104, respectively. The medical inflation rate used in 2008 to determine the PBO of these benefits was 7.0% in Mexico, 5.0% in Puerto Rico, 5.0% in the United States and 7.0% in the United Kingdom. Under MFRS D-3, workforce reductions previously mentioned generated events of settlement and curtailment of obligations in several post-retirement benefits; therefore, changes in plan liabilities and proportional parts of prior services and actuarial results pending to be amortized were recognized in the income statement for the period, which represented a gain of approximately Ps15.

Other employee benefits

In addition, in some countries, CEMEX has self-insured health care benefits plans for its active employees, which are managed on cost plus fee arrangements with major insurance companies or provided through health maintenance organizations. As of December 31, 2008 and 2007, in certain plans, CEMEX has established stop-loss limits for continued medical assistance derived from a specific cause (e.g., an automobile accident, illness, etc.) ranging from US$23 thousand dollars to US$140 thousand dollars; while in other plans, CEMEX has established stop-loss limits per employee regardless of the number of events ranging from US$350 thousand to US$2 million. In theory, there is a risk that all employees qualifying for health care benefits may require medical services simultaneously; in that case, the contingency for CEMEX would be significantly larger. However, this scenario while possible is remote. The amount expensed for the years ended December 31, 2008, 2007 and 2006 through self-insured health care benefits was approximately US$100 (Ps1,126), US$99 (Ps1,081) and US$57 (Ps637), respectively.

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14. INCOME TAXES

A) INCOME TAXES

As mentioned in note 2O, CEMEX determines current and deferred income taxes. The amounts for income taxes included in the consolidated income statements for the years ended December 31, 2008, 2007 and 2006 are summarized as follows:

	2008	2007	2006
Current income taxes			
From Mexican operations	Ps (2,793)	(1,649)	57
From foreign operations	(4,969)	(3,574)	(4,497)
	(7,762)	(5,223)	(4,440)
Deferred income taxes			
From Mexican operations	5,990	(357)	2,331
From foreign operations	25,334	784	(3,589)
	31,324	427	(1,258)
Income tax benefit (expense)	Ps23,562	(4,796)	(5,698)

As of December 31, 2008, consolidated tax loss and tax credits carryforwards will expire as follows:

	Amount of carryforwards
2009	Ps 2,614
2010	1,852
2011	992
2012	38,368
2013 and thereafter	149,967
	Ps 193,793

B) DEFERRED INCOME TAXES

The valuation method for deferred income taxes is detailed in note 2O. Deferred income taxes for the period represent the difference, in nominal amount terms, between the balances of deferred income at the beginning and the end of the period. Deferred income tax assets and liabilities relating to different tax jurisdictions are not offset. As of December 31, 2008 and 2007, the income tax effects of the significant temporary differences that generate the consolidated deferred income tax assets and liabilities are presented below:

	2008	2007
Deferred tax assets:		
Tax loss carryforwards and other tax credits	Ps 55,488	31,730
Accounts payable and accrued expenses	13,616	4,943
Deferred charges, net	6,374	1,382
Others	719	689
Total deferred tax assets	76,197	38,744
Less – Valuation allowance	(27,194)	(21,093)
Net deferred tax assets	49,003	17,651
Deferred tax liabilities:		
Property, machinery and equipment	(53,215)	(62,202)
Investments and other assets	(8,285)	(710)
Deferred credits	(2,261)	(3,403)
Others	(2,381)	(867)
Total deferred tax liabilities	(66,142)	(67,182)
Net deferred tax liability	Ps(17,139)	(49,531)

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Changes to the consolidated valuation allowance of deferred tax assets in 2008 and 2007 are as follows:

	2008	2007
Balance at the beginning of the period	Ps(21,093)	(14,690)
Increases	(5,652)	(10,289)
Decreases	1,571	3,421
Translation effects	(2,020)	(681)
Restatement effect	—	1,146
Balance at the end of the period	Ps(27,194)	(21,093)

The change in consolidated deferred income taxes for the period in 2008, 2007 and 2006, is as follows:

	2008	2007	2006
Deferred income tax charged to the income statement	Ps 31,324	427	(1,258)
Deferred income tax in stockholders' equity [1]	(362)	(427)	(641)
Change in deferred income tax for the period	Ps30,962	—	(1,899)

[1] The change in stockholders' equity in 2008 includes a debit of Ps920 related to the initial recognition of the effect of deferred tax liabilities on investment in associates within "Retained earnings," and a credit of Ps558 related to the deferred tax asset on items directly recognized in stockholders' equity.

The change for the period excludes Ps1,430 related to the reclassification of the deferred tax liability of CEMEX's operations in Venezuela, which were reclassified to the caption of "Non-current accounts receivable and other assets" (note 8B).

CEMEX considers that sufficient future taxable income will be generated to realize the tax benefits associated with the deferred income tax assets and tax loss carryforwards, prior to their expiration. Nevertheless, a valuation allowance is recorded for the deferred tax assets on tax loss carryforwards that is estimated may not be recoverable in the future. In the event that present conditions change, and it is determined that future operations would not generate sufficient taxable income, the valuation allowance on deferred tax assets would be increased against the income statement.

CEMEX, S.A.B de C.V. has not provided for any deferred tax liability for the undistributed earnings generated by its subsidiaries, recognized under the equity method, considering that such undistributed earnings are expected to be reinvested, not generating income tax in the foreseeable future (note 15C). Likewise, CEMEX does not recognize a deferred income tax liability related to its investments in subsidiaries and interests in joint ventures, considering that CEMEX controls the reversal of the temporary differences arising from these investments.

C) EFFECTIVE TAX RATE

Differences between the financial reporting and the corresponding tax basis of assets and liabilities and the different IT rates and laws applicable to CEMEX, among other factors, give rise to permanent differences between the approximate statutory tax rate and the effective tax rate presented in the consolidated income statements, which in 2008, 2007 and 2006 are as follows:

	2008 %	2007 %	2006 %
Approximate consolidated statutory tax rate	(28.0)	28.0	29.0
Non-taxable dividend income	(16.7)	(3.9)	(18.2)
Other non-taxable income [1]	(35.0)	(12.9)	(3.8)
Expenses and other non-deductible items	27.5	9.3	13.4
Non-taxable sale of marketable securities and fixed assets	(7.7)	(2.7)	(3.5)
Difference between book and tax inflation	8.6	(0.1)	(1.4)
Other tax benefits, net of impairment losses	(24.1)	—	—
Foreign exchange fluctuations [2]	(40.5)	(2.5)	(4.1)
Others	5.0	(0.1)	4.9
Effective consolidated tax rate	(110.9)	15.1	16.3

[1] Includes the effects of the different income tax rates in the countries where CEMEX operates.

[2] Includes the effects of foreign exchange fluctuations recognized as a translation effect (note 15B).

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15. STOCKHOLDERS' EQUITY

The carrying amounts of consolidated stockholders' equity as of December 31, 2008 and 2007, exclude investment in shares of CEMEX, S.A.B. de C.V. held by subsidiaries, which implied a reduction to majority interest stockholders' equity of Ps6,354 (589,238,041 CPOs) in 2008, Ps6,366 (569,671,633 CPOs) in 2007 and Ps6,410 (559,984,409 CPOs) in 2006. This reduction is included within "Other equity reserves."

A) COMMON STOCK

As of December 31, 2008 and 2007, the common stock of CEMEX, S.A.B. de C.V. was as follows:

	2008		2007	
Shares [1]	Series A [2]	Series B [3]	Series A [2]	Series B [3]
Subscribed and paid shares	16,726,263,082	8,363,131,541	16,157,281,752	8,078,640,876
Treasury shares [4]	432,036,438	216,018,219	581,451,054	290,725,527
Unissued shares authorized for stock option programs	424,206,326	212,103,163	425,224,094	212,612,047
	17,582,505,846	8,791,252,923	17,163,956,900	8,581,978,450

[1] 13,068,000,000 shares in both years relate to the fixed portion and 13,305,758,769 in 2008 and 12,677,935,350 in 2007 to the variable portion.

[2] Series "A" or Mexican shares must represent at least 64% of CEMEX's capital stock.

[3] Series "B" or free subscription shares must represent at most 36% of CEMEX's capital stock.

[4] In both years, includes the shares issued as stock dividends that were not subscribed by stockholders that elected to receive the cash dividend.

On April 24, 2008, the annual ordinary stockholders' meeting approved: (i) a reserve for share repurchases of up to Ps6,000 (nominal); (ii) an increase in the variable common stock through the capitalization of retained earnings of up to Ps7,500 (nominal amount), issuing up to 1,500 million shares, equivalent to 500 million CPOs, based on a subscription price of Ps23.92 pesos (nominal amount) per CPO; or instead, stockholders could have chosen to receive a cash dividend of US$0.0835 per CPO, or approximately Ps0.8677 pesos (nominal amount) for each CPO, considering the exchange rate of *Banco de México* on May 29, 2008 of Ps10.3925 pesos per 1 dollar. As a result, shares equivalent to approximately 284 million CPOs were subscribed and paid, representing an increase in common stock of Ps2 and additional paid-in capital of Ps6,792, considering a nominal value of Ps0.00833 pesos (nominal amount) per CPO, while an approximate cash dividend payment was made for approximately Ps214 (nominal amount); and (iii) the cancellation of the corresponding shares held in the CEMEX's treasury.

On April 26, 2007, the annual ordinary stockholders' meeting approved: (i) a reserve for share repurchases of up to Ps6,000 (nominal amount); (ii) an increase in the variable common stock through the capitalization of retained earnings of up to Ps7,889 (nominal amount), issuing shares as a stock dividend for up to 1,440 million shares, equivalent to 480 million CPOs, based on a price of approximately Ps32.75 pesos (nominal amount) per CPO; or instead, stockholders could have chosen to receive a cash dividend of US$0.0745 for each CPO, or approximately Ps0.8036 pesos (nominal amount) for each CPO, considering the exchange rate of *Banco de México* on May 31, 2007 of Ps10.7873 pesos per 1 dollar. As a result, shares equivalent to approximately 189 million CPOs were issued, representing an increase in common stock of Ps2 and additional paid-in capital of Ps6,397, considering a nominal value of Ps0.00833 pesos (nominal amount) per CPO, while an approximate cash dividend payment was made for approximately Ps140 (nominal); and (iii) the cancellation of the corresponding shares held in CEMEX's treasury.

The CPOs issued pursuant to the exercise of options under the "fixed program" (note 16A) generated additional paid-in capital of approximately Ps4 and Ps2, in 2008 and 2007, respectively, and increased the number of shares outstanding.

B) OTHER EQUITY RESERVES

As of December 31, 2008 and 2007, the balance of other equity reserves is summarized as follows:

	2008	2007
Cumulative translation effect and deficit in equity restatement, net [1]	Ps35,084	(91,290)
Treasury shares	(6,354)	(6,366)
Cumulative initial deferred income tax effects [2]	—	(6,918)
	Ps28,730	(104,574)

[1] The results for holding non-monetary assets as of December 31, 2007 were reclassified to "Retained earnings" as a result of the adoption of MFRS B-10 (note 2).

[2] Likewise, as a result of the adoption of new MFRS D-4, the cumulative initial effect of deferred taxes as of December 31, 2007 was reclassified to "Retained earnings."

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For the years ended December 31, 2008, 2007 and 2006, the translation effect included in the statement of changes in stockholders' equity is detailed as follows:

	2008	2007	2006
Foreign currency translation adjustment [1]	Ps 106,190	3,186	5,904
Foreign exchange fluctuations from debt [2]	(9,407)	(400)	(580)
Foreign exchange fluctuations from intercompany balances [3]	(65,796)	141	(1,993)
	Ps 30,987	2,927	3,331

[1] These effects refer to the result from the translation of the financial statements of foreign subsidiaries.

[2] Generated by foreign exchange fluctuations over a notional amount of debt in CEMEX, S.A.B. de C.V. associated with the acquisition of foreign subsidiaries and designated as hedge of the net investment in foreign subsidiaries. The average amount of such debt was approximately US$3,656 in 2008, US$2,188 in 2007 and US$1,873 in 2006.

[3] Refers to foreign exchange fluctuations arising from balances of related parties in foreign currencies that are of a long-term investment nature considering that their liquidation is not anticipated in the foreseeable future, of which a loss of Ps4,857 in 2008 was recognized in CEMEX, S.A.B. de C.V.

C) RETAINED EARNINGS

As a result of reclassifications and cumulative initial effects from the adoption of new MFRS beginning on January 1, 2008 (note 2), the balance of retained earnings decreased in an aggregate amount of Ps107,843. Considering this, as of December 31, 2008 and 2007, retained earnings include Ps94,262 and Ps172,409, respectively, of earnings generated by subsidiaries and associates, that are not available to be paid as dividends by CEMEX until these entities distribute such amounts to CEMEX and include a share repurchase reserve in the amount of Ps6,000 in 2008 and Ps6,266 in 2007.

Net income for the year is subject to a 5% allocation towards a legal reserve until such reserve equals one fifth of the common stock. As of December 31, 2008, the legal reserve amounted to Ps1,804.

D) MINORITY INTEREST AND PERPETUAL DEBENTURES

Minority interest

Minority interest represents the share of minority stockholders in the results and equity of consolidated subsidiaries. As of December 31, 2008 and 2007, minority interest amounts to approximately Ps5,080 and Ps7,515, respectively.

Perpetual debentures

As of December 31, 2008 and 2007, consolidated balance sheets include approximately US$3,020 (Ps41,495) and US$3,065 (Ps33,470), respectively, representing the notional amount of perpetual debentures. These debentures have no fixed maturity date and do not represent a contractual payment obligation for CEMEX. Based on their characteristics, these debentures issued entirely by Special Purpose Vehicles ("SPVs") qualify as equity instruments and are classified within minority interest as they were issued by consolidated entities, and considering that there is no contractual obligation to deliver cash or any other financial asset, the debentures do not have any maturity date, meaning that they were issued to perpetuity, and CEMEX has the unilateral right to defer indefinitely the payment of interest due on the debentures. The definition of the debentures as equity instruments was made under applicable IFRS, which were applied to these transactions in compliance with the supplementary application of IFRS in Mexico. Issuance costs, as well as interest expense, which is accrued based on the principal amount of the perpetual debentures, are included within "Other equity reserves" and represented expenses of approximately Ps2,596 in 2008, Ps1,847 in 2007 and Ps152 in 2006. The different SPVs were established solely for purposes of issuing the perpetual debentures and are included in CEMEX's consolidated financial statements.

As of December 31, 2008, CEMEX's perpetual debentures are as follows:

Issuer	Issuance Date	Nominal Amount	Repurchase Option	Interest Rate
C10-EUR Capital (SPV) Ltd.	May 2007	€ 730	Tenth anniversary	6.3%
C8 Capital (SPV) Ltd.	February 2007	US$ 750	Eighth anniversary	6.6%
C5 Capital (SPV) Ltd.	December 2006	US$ 350	Fifth anniversary	6.2%
C10 Capital (SPV) Ltd.	December 2006	US$ 900	Tenth anniversary	6.7%

As mentioned in note 11C, there are derivative instruments associated with the perpetual debentures, through which CEMEX changes the risk profile associated with interest rates and foreign exchange rates in respect of the debentures from the U.S. dollar and euro to the Japanese yen.

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16. EXECUTIVE STOCK OPTION PROGRAMS

CEMEX granted to a group of executives a long-term compensation scheme through which such executives receive cash bonuses, recognized in the operating results, which are used by the executives to acquire CPOs in the market. The expense recognized through the income statement during 2008, 2007 and 2006 was Ps725, Ps645 and Ps431, respectively. The fair value of CPOs at acquisition date equals the cash bonuses. Pursuant to an agreement between CEMEX and the executives, the acquired CPOs are placed in an executives' owned trust to comply with a restriction for sale period of 4 years, which vests up to 25% at the end of each year.

As mentioned in note 2U, in connection with its "equity" programs, in which new shares are issued through the exercise of options, CEMEX determines the fair value of the awards as of the grant date, and recognizes such fair value through earnings over the options' vesting period. Likewise, in connection with its "liability" instruments, comprised by those awards in which CEMEX incurs an obligation by committing to pay the executive, through the exercise of the option, an amount in cash or in other financial assets, CEMEX determines the fair value of the awards at each reporting date, recognizing the changes in valuation through the income statement. CEMEX's outstanding options except for those of its "Fixed program" represent liability instruments.

The information related to options granted in respect of CEMEX, S.A.B. de C.V. shares is as follows:

Options	Fixed program (A)	Variable program (B)	Restricted program (C)	Special program (D)
Options at the beginning of 2007	949,704	1,555,114	15,601,673	1,229,953
Changes in 2007:				
Options cancelled and adjustments	928	—	—	
Options exercised	(52,162)	(178,767)	(579,401)	(384,529)
Options at the end of 2007	898,470	1,376,347	15,022,272	845,424
Changes in 2008:				
Options cancelled and adjustments	(63,352)	—	—	—
Options exercised	(87,873)	(17,427)	—	(99,425)
Options at the end of 2008	747,245	1,358,920	15,022,272	745,999
Underlying CPOs [1]	4,191,934	6,845,735	67,769,976	14,919,980
Exercise prices:				
Options outstanding at the beginning of 2008 [1, 2]	Ps 7.02	US$ 1.43	US$ 2.00	US$ 1.34
Options exercised in the year [1, 2]	Ps 7.10	US$ 1.18	—	US$ 1.33
Options outstanding at the end of 2008 [1, 2]	Ps 6.72	US$ 1.43	US$ 2.00	US$ 1.35
Average useful life of options:	0.8 years	3.3 years	6.0 years	4.7 years
Number of options per exercise price:	266,385 – Ps4.91	886,170 – US$1.5	15,022,272 – US$2.0	86,326 – US$1.1
	138,168 – Ps6.53	141,679 – US$1.6	—	125,345 – US$1.4
	148,964 – Ps7.97	67,295 – US$1.3	—	162,632 – US$1.0
	193,728 – Ps8.39	205,034 – US$1.2	—	257,291 – US$1.4
		58,742 – US$1.4	—	114,405 – US$1.9
Percent of options fully vested:	100%	100%	100%	93.8%

[1] Exercise prices and the number of underlying CPOs are technically adjusted for the dilutive effect of stock dividends.

[2] Weighted average exercise prices per CPO. Prices include the effects of the stock split detailed in note 15A.

A) Fixed program

From June 1995 through June 2001, CEMEX granted stock options with a fixed exercise price in pesos ("fixed program"), equivalent to the market price of the CPO at the grant date and with tenure of 10 years. The employees' option rights vested up to 25% annually during the first 4 years after having been granted.

B) Variable program

These programs started in November 2001, through an exchange of fixed program options, with exercise prices denominated in dollars increasing annually at a 7% rate.

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C) Restricted program

These programs started in February 2004 through a voluntary exchange of options mainly from the variable program. These options have an exercise price denominated in dollars which, depending on the program, increases annually at a 5.5% rate or at a 7% rate. Executives' gains under these options are settled in the form of CPOs, which are restricted for sale for an approximate period of 4 years from the exercise date.

D) Special program

From June 2001 through June 2005, CEMEX's subsidiary in the United States granted to a group of its employees a stock option program to purchase CEMEX ADSs. The options granted have a fixed exercise price denominated in dollars and tenure of 10 years. The employees' option rights vested up to 25% annually after having been granted. The option exercises are hedged using ADSs currently owned by subsidiaries, which increases stockholders' equity and the number of shares outstanding. The amounts of these ADS programs are presented in terms of equivalent CPOs (ten CPOs represent one ADS).

Otherprograms

As of December 31, 2008 and 2007, CEMEX's subsidiary in Ireland has an outstanding stock option program in its own shares over 554,029 and 733,024 shares, respectively, with an average exercise price per share of approximately €0.97 and €1.30, respectively. As of December 31, 2008 and 2007, the market price per share of this subsidiary's stock was €0.20 and €1.60, respectively.

FAIR VALUE OF OPTIONS, ACCOUNTING RECOGNITION AND OPTIONS' HEDGING ACTIVITIES

Valuation of options at fair value and accounting recognition

All options of programs that qualify as liability instruments are valued at their estimated fair value as of the financial statements date, recognizing changes in valuations in the income statement. Upon adoption of IFRS 2 in 2005, CEMEX recognized a cost of approximately Ps1,172 (Ps1,017 net of deferred income tax). Changes in the provision for the executive stock option programs for the years ended December 31, 2008 and 2007 are as follows:

	Restricted programs	Variable program	Special program	Total
Provision as of December 31, 2006	Ps 1,726	230	686	2,642
Net revenue in current period results	(643)	(75)	(257)	(975)
Estimated decrease from exercises of options	(40)	(19)	(99)	(158)
Foreign currency translation effect	(116)	(16)	(47)	(179)
Provision as of December 31, 2007	927	120	283	1,330
Net revenue in current period results	(1,055)	(129)	(353)	(1,537)
Estimated decrease from exercises of options	—	1	29	30
Foreign currency translation effect	239	31	73	343
Provision as of December 31, 2008	Ps 111	23	32	166

The options' fair values were determined through the binomial option-pricing model. As of December 31, 2008 and 2007, the most significant assumptions used in the valuations are as follows:

Assumptions	2008	2007
Expected dividend yield	10.4%	3.7%
Volatility	35%	35%
Interest rate	1.8%	3.7%
Weighted average remaining tenure	5.3 years	5.8 years

Options hedging activities

As of December 31, 2007, CEMEX had a forward contract over the price of 47 million CPOs to hedge executive stock options. During 2008, the hedge was increased to approximately 81 million CPOs with a notional amount of US$206. In October 2008, the anticipated settlement of these contracts arose as a result of the significant decrease in the CPO price, generating a loss of approximately US$153 (Ps2,102) recognized in the results for the period.

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17. SELECTED FINANCIAL INFORMATION BY GEOGRAPHIC OPERATING SEGMENT

Operating segments are defined as the components of an entity oriented to the production and sale of goods and services, which are subject to risks and benefits different from those associated with other business segments. CEMEX operates principally in the construction industry segment through the production, distribution, marketing and sale of cement, ready-mix concrete and aggregates.

CEMEX operates geographically on a regional basis. Each regional manager supervises and is responsible for all the business activities undergoing in the countries comprising the region. These activities refer to the production, distribution, marketing and sale of cement, ready-mix concrete and aggregates. The country manager, who is one level below the regional manager in the organizational structure, reports to the regional manager the operating results of the country manager's business unit, including all the operating sectors. CEMEX's management internally evaluates the results and performance of each country and region for decision-making purposes, following a vertical integration approach. According to this approach, in the daily operations, management allocates economic resources on a country basis rather than on an operating component basis.

The main indicator used by CEMEX's management to evaluate the performance of each country is operating EBITDA, which CEMEX defines as operating income plus depreciation and amortization. This indicator, which is presented in the selected financial information by geographic operating segment, is consistent with the information used by CEMEX's management for decision-making purposes. The accounting policies applied to determine the financial information by geographic operating segment are consistent with those described in note 2. CEMEX recognizes sales and other transactions between related parties based on market values.

Selected financial information of the income statement by geographic operating segment for the years ended December 31, 2008, 2007 and 2006 is as follows:

2008	Net sales (including related parties)	Related parties	Consolidated net sales	Operating income (loss)	Operating depreciation and amortization	Operating EBITDA
North America						
Mexico	Ps 42,856	(1,221)	41,635	14,254	1,880	16,134
United States	52,040	—	52,040	(111)	7,950	7,839
Europe [2]						
Spain	17,493	(306)	17,187	3,883	883	4,766
United Kingdom	19,225	—	19,225	(801)	986	185
Rest of Europe	49,819	(1,332)	48,487	3,781	2,833	6,614
Central and South America and the Caribbean [3]						
Venezuela	4,443	(157)	4,286	958	392	1,350
Colombia	6,667	(3)	6,664	2,235	735	2,970
Rest of Central and South America and the Caribbean	13,044	(1,267)	11,777	2,622	401	3,023
Africa and Middle East [4]						
Egypt	5,219	—	5,219	2,104	240	2,344
Rest of Africa and Middle East	6,831	—	6,831	494	271	765
Asia and Australia [5]						
Australia	17,536	—	17,536	2,364	577	2,941
Philippines	2,928	(256)	2,672	711	283	994
Rest of Asia	2,626	—	2,626	27	117	144
Others [6]	12,362	(5,346)	7,016	(4,637)	3,316	(1,321)
Total Consolidated	Ps253,089	(9,888)	243,201	27,884	20,864	48,748

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Selected financial information of income statement by geographic operating segment – continued.

2007	Net sales (including related parties)	Related parties	Consolidated net sales	Operating income (loss)	Operating depreciation and amortization	Operating EBITDA
North America [1]						
Mexico	Ps 41,814	(816)	40,998	12,549	1,869	14,418
United States	54,607	—	54,607	5,966	6,848	12,814
Europe [2]						
Spain	23,781	(205)	23,576	6,028	889	6,917
United Kingdom	22,432	(1)	22,431	(446)	1,130	684
Rest of Europe	47,100	(1,344)	45,756	3,281	2,033	5,314
Central and South America and the Caribbean [3]						
Venezuela	7,317	(494)	6,823	1,971	832	2,803
Colombia	6,029	—	6,029	2,037	413	2,450
Rest of Central and South America and the Caribbean	10,722	(727)	9,995	1,975	839	2,814
Africa and Middle East [4]						
Egypt	3,723	—	3,723	1,534	232	1,766
Rest of Africa and Middle East	4,666	—	4,666	(51)	117	66
Asia and Australia [5]						
Australia	8,633	—	8,633	1,177	306	1,483
Philippines	3,173	(405)	2,768	851	304	1,155
Rest of Asia	2,068	—	2,068	33	83	116
Others [6]	17,872	(13,276)	4,596	(4,457)	1,516	(2,941)
Total Consolidated	Ps253,937	(17,268)	236,669	32,448	17,411	49,859

2006	Net sales (including related parties)	Related parties	Consolidated net sales	Operating income (loss)	Operating depreciation and amortization	Operating EBITDA
North America						
Mexico	Ps 42,577	(1,052)	41,525	13,210	1,822	15,032
United States	48,911	(368)	48,543	10,092	3,537	13,629
Europe [2]						
Spain	21,834	(207)	21,627	5,637	864	6,501
United Kingdom	23,854	(18)	23,836	154	1,413	1,567
Rest of Europe	44,691	(894)	43,797	2,220	2,536	4,756
Central and South America and the Caribbean [3]						
Venezuela	6,217	(721)	5,496	1,799	587	2,386
Colombia	4,206	(2)	4,204	1,138	398	1,536
Rest of Central and South America and the Caribbean	9,046	(285)	8,761	1,322	698	2,020
Africa and Middle East [4]						
Egypt	3,577	—	3,577	1,475	225	1,700
Rest of Africa and Middle East	4,794	—	4,794	120	89	209
Asia [5]						
Philippines	2,620	(464)	2,156	726	220	946
Rest of Asia	1,694	—	1,694	(62)	46	(16)
Others [6]	20,134	(16,377)	3,757	(3,326)	1,526	(1,800)
Total Consolidated	Ps234,155	(20,388)	213,767	34,505	13,961	48,466

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All significant balances and transactions between related parties have been eliminated in the preparation of the selected financial statements by operating geographic segments. As of December 31, 2008 and 2007, information is as follows:

December 31, 2008	Investments in associates	Other segment assets	Total assets	Total liabilities	Net assets by segment	Capital expenditures
North America						
Mexico	Ps 731	64,967	65,698	11,805	53,893	5,422
United States	3,573	274,199	277,772	34,038	243,734	4,265
Europe [2]						
Spain	288	61,277	61,565	23,041	38,524	2,037
United Kingdom	443	37,437	37,880	16,929	20,951	1,492
Rest of Europe	911	60,664	61,575	18,154	43,421	5,345
Central and South America and the Caribbean [3]						
Venezuela	—	—	—	—	—	57
Colombia	—	10,538	10,538	4,206	6,332	220
Rest of Central and South America and the Caribbean	26	21,741	21,767	4,773	16,994	1,663
Africa and Middle East [4]						
Egypt	—	9,271	9,271	3,018	6,253	646
Rest of Africa and Middle East	—	11,282	11,282	3,222	8,060	280
Asia and Australia [5]						
Australia	2,307	28,405	30,712	5,616	25,096	737
Philippines	—	8,821	8,821	1,698	7,123	175
Rest of Asia	—	2,575	2,575	648	1,927	73
Corporate [6]	4,443	9,837	14,280	234,042	(219,762)	—
Others [6]	1,478	8,408	9,886	25,165	(15,279)	1,488
Total Consolidated	Ps 14,200	609,422	623,622	386,355	237,267	23,900

December 31, 2007	Investments in associates	Other segment assets	Total assets	Total liabilities	Net assets by segment	Capital expenditures
North America [1]						
Mexico	Ps 426	60,850	61,276	14,293	46,983	4,347
United States	642	245,941	246,583	46,330	200,253	5,411
Europe [2]						
Spain	25	43,297	43,322	19,722	23,600	2,323
United Kingdom	473	28,149	28,622	10,680	17,942	1,451
Rest of Europe	837	49,164	50,001	15,404	34,597	4,212
Central and South America and the Caribbean [3]						
Venezuela	231	11,284	11,515	2,542	8,973	515
Colombia	—	9,799	9,799	3,126	6,673	163
Rest of Central and South America and the Caribbean	22	15,863	15,885	3,085	12,800	1,178
Africa and Middle East [4]						
Egypt	—	6,705	6,705	1,715	4,990	298
Rest of Africa and Middle East	302	5,043	5,345	1,545	3,800	684
Asia and Australia [5]						
Australia	1,648	24,076	25,724	2,929	22,795	336
Philippines	—	8,034	8,034	1,902	6,132	165
Rest of Asia	—	2,217	2,217	246	1,971	113
Corporate [6]	3,691	8,665	12,356	201,719	(189,363)	—
Others [6]	1,923	13,007	14,930	12,923	2,007	1,093
Total Consolidated	Ps 10,220	532,094	542,314	338,161	204,153	22,289

Total consolidated liabilities include debt of Ps258,094 in 2008 and Ps216,911 in 2007. Of such debt, approximately 30% in 2008 and 34% in 2007 was in the Parent Company, 45% and 47% in Spain, 14% in 2008 and 9% in 2007 in finance Dutch subsidiaries, 4% in both periods in finance companies in the United States and 7% and 6% in other countries, respectively.

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The information of net sales by sector and geographic segment for the years ended December 31, 2008, 2007 and 2006 is as follows:

2008	Cement	Concrete	Aggregates	Others	Eliminations	Net sales
North America						
Mexico	Ps 28,666	13,017	1,355	7,597	(9,000)	41,635
United States	17,429	19,601	11,379	17,258	(13,627)	52,040
Europe [2]						
Spain	11,900	5,267	1,224	3,526	(4,730)	17,187
United Kingdom	3,773	7,427	6,574	8,208	(6,757)	19,225
Rest of Europe	14,222	27,124	9,815	6,483	(9,157)	48,487
Central and South America and the Caribbean [3]						
Venezuela	3,046	1,398	204	106	(468)	4,286
Colombia	4,656	2,340	450	1,159	(1,941)	6,664
Rest of Central and South America and the Caribbean	10,518	3,234	249	810	(3,034)	11,777
Africa and Middle East [4]						
Egypt	4,728	485	39	80	(113)	5,219
Rest of Africa and Middle East	—	5,449	799	1,263	(680)	6,831
Asia and Australia [5]						
Australia	—	10,705	7,013	3,170	(3,352)	17,536
Philippines	2,919	—	—	9	(256)	2,672
Rest of Asia	791	1,533	166	229	(93)	2,626
Others [6]	—	—	—	12,362	(5,346)	7,016
Total Consolidated	Ps102,648	97,580	39,267	62,260	(58,554)	243,201

2007	Cement	Concrete	Aggregates	Others	Eliminations	Net sales
North America [1]						
Mexico	Ps 29,223	13,617	1,126	6,746	(9,714)	40,998
United States	20,477	22,675	10,674	12,230	(11,449)	54,607
Europe [2]						
Spain	16,006	6,873	1,561	6,379	(7,243)	23,576
United Kingdom	4,366	9,289	7,503	8,695	(7,422)	22,431
Rest of Europe	12,531	25,663	9,499	6,695	(8,632)	45,756
Central and South America and the Caribbean [3]						
Venezuela	5,106	2,179	246	321	(1,029)	6,823
Colombia	4,312	2,223	385	1,209	(2,100)	6,029
Rest of Central and South America and the Caribbean	8,551	2,674	139	506	(1,875)	9,995
Africa and Middle East [4]						
Egypt	3,430	294	—	32	(33)	3,723
Rest of Africa and Middle East	—	4,142	—	774	(250)	4,666
Asia and Australia [5]						
Australia	—	5,282	3,395	1,581	(1,625)	8,633
Philippines	3,173	—	—	—	(405)	2,768
Rest of Asia	721	1,026	151	247	(77)	2,068
Others [6]	—	—	—	17,872	(13,276)	4,596
Total Consolidated	Ps107,896	95,937	34,679	63,287	(65,130)	236,669

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Net sales by sector and geographic segment – continued.

2006	Cement	Concrete	Aggregates	Others	Eliminations	Net sales
North America						
Mexico	Ps 30,080	12,972	670	7,381	(9,578)	41,525
United States	22,441	21,118	6,252	6,539	(7,807)	48,543
Europe [2]						
Spain	14,802	6,407	1,359	5,556	(6,497)	21,627
United Kingdom	3,850	9,652	7,567	10,518	(7,751)	23,836
Rest of Europe	10,567	24,217	8,830	8,914	(8,731)	43,797
Central and South America and the Caribbean [3]						
Venezuela	4,739	1,620	167	236	(1,266)	5,496
Colombia	2,991	1,544	267	735	(1,333)	4,204
Rest of Central and South America and the Caribbean	7,130	2,232	87	388	(1,076)	8,761
Africa and Middle East [4]						
Egypt	3,336	234	—	33	(26)	3,577
Rest of Africa and Middle East	—	3,959	—	5,712	(4,877)	4,794
Asia [5]						
Philippines	2,619	—	—	1	(464)	2,156
Rest of Asia	742	703	139	192	(82)	1,694
Others [6]	—	—	—	20,134	(16,377)	3,757
Total Consolidated	Ps103,297	84,658	25,338	66,339	(65,865)	213,767

Footnotes to the geographic segments tables presented above:

[1] In 2007, "United States" includes Rinker's operations in that country for the period of July 1 to December 31, 2007.

[2] For the reported periods, the segment "Rest of Europe" refers primarily to operations in Germany, France, Ireland, Czech Republic, Austria, Poland, Croatia, Hungary and Latvia.

[3] For the reported periods, this segment includes CEMEX's operations in Costa Rica, Panama, Puerto Rico, the Dominican Republic, Nicaragua, the Caribbean, Guatemala, and small ready-mix concrete operations in Jamaica and Argentina. In August 2008, the Government of Venezuela nationalized CEMEX's operations in that country (note 10A); therefore, operations reported refer to the seven-month period ended July 31, 2008.

[4] The segment "Rest of Africa and Middle East" includes the operations in the United Arab Emirates and Israel.

[5] In 2007, the segment "Australia" includes Rinker's operations in that country for the six-month period ended December 31, 2007. In addition, for the years reported, the segment "Rest of Asia" includes the operations in Thailand, Bangladesh and Malaysia, and in 2007, Rinker's operations in China for the six-month ended December 31, 2007.

[6] These segments refer to: 1) cement trade maritime operations, 2) the subsidiary involved in the development of information technology solutions (Neoris, N.V.), 3) the Parent Company and other corporate entities, and 4) other minor subsidiaries with different lines of business.

18. EARNINGS PER SHARE

The amounts considered for calculations in 2008, 2007 and 2006 are the following:

	2008	2007	2006
Numerator			
Majority interest net income	Ps 2,278	26,108	27,855
Denominator (thousands of shares)			
Weighted average number of shares outstanding	22,984,810	22,297,264	21,552,250
Effect of dilutive instruments – executives' stock options	10,337	11,698	12,500
Effect of dilutive instruments – equity forwards on CEMEX's CPOs	—	—	2,379
Potentially dilutive shares	10,337	11,698	14,879
Weighted average number of shares outstanding – diluted	22,995,147	22,308,962	21,567,129
Basic earnings per share ("Basic EPS")	Ps 0.10	1.17	1.29
Diluted earnings per share ("Diluted EPS")	Ps 0.10	1.17	1.29

Diluted earnings per share reflect the effects of any transactions which have a potentially dilutive effect on the weighted average number of common shares outstanding. The number of potential shares to be diluted in 2008, 2007 and 2006 refer to the additional shares to be issued under the fixed stock option program (note 16A) and in 2006, the dilutive effect of the number of shares resulting from equity forward contracts in CEMEX's own stock, determined under the inverse treasury method.

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19. COMMITMENTS

A) GUARANTEES

As of December 31, 2008 and 2007, CEMEX, S.A.B. de C.V. had guaranteed loans of certain subsidiaries for approximately US$1,407 and US$513, respectively.

B) PLEDGED ASSETS

As of December 31, 2008 and 2007, there were liabilities amounting to US$76 and US$46, respectively, secured by property, machinery and equipment. In addition, as of December 31, 2008, from the investment in shares of CEMEX, S.A.B. de C.V. held by subsidiaries (note 15), 586,147,722 CPOs as well as CEMEX's investment in Control Administrativo Mexicano, S.A. de C.V. and Cancem, S.A. de C.V. (note 8A) are held in an ownership transferring trust for management and payment, where CEMEX maintains its corporate and property rights, securing the payment of CEMEX, S.A.B. de C.V. debt for an amount of US$250 (Ps3,435), which includes quarterly amortizations starting in July 2009 and maturing in October 2010. In the event of default, the assets would be sold and the amount applied to such debt.

C) COMMITMENTS

As of December 31, 2008 and 2007, CEMEX had commitments for the purchase of raw materials for an approximate amount of US$194 and US$264, respectively.

During 1999, CEMEX entered into agreements with an international partnership, which built and operated an electrical energy generating plant in Mexico called Termoeléctrica del Golfo ("TEG"). During 2007, another international company replaced the original operator. The agreements establish that CEMEX should purchase the energy generated for a term of not less than 20 years, which started in April 2004. Likewise, CEMEX committed to supply TEG all fuel necessary for its operations, a commitment that has been hedged through a 20-year agreement entered with *Petróleos Mexicanos*. With the change of operator, the term was extended until 2027. Nevertheless, the agreement with *Petróleos Mexicanos* terminates in 2024. Consequently, for the last 3 years of the TEG fuel supply contract, CEMEX intends to purchase the required fuel in the market. CEMEX is not required to make any capital expenditure in the project. For the years ended December 31, 2008, 2007 and 2006, TEG supplied (unaudited) 60.4%, 59.7% and 57.1%, respectively, of CEMEX's electricity needs in Mexico during such years.

CEMEX Ostzement GMBH ("COZ"), CEMEX's subsidiary in Germany, has entered into a long-term energy supply contract with *Vattenfall Europe New Energy* ("VENE"), by means of which VENE is committed to supply energy to the Rüdersdorf plant for a period of 15 years starting on January 1, 2008. Based on the contract, each year, COZ has the option to fix in advance the volume of energy in terms of megawatts ("MW") that it will acquire from VENE, and to adjust the purchase amount once on a monthly and quarterly basis. According to the contract, COZ will acquire 28 MW under the contract in 2008 and 2009, and 23 MW per year until 2013. The contract, which establishes a price mechanism for the energy acquired, based on the price of energy future contracts quoted on the European Energy Exchange, does not require initial investments, and will be liquidated at a future date. Based on its characteristics, this contract qualifies as a financial instrument under MFRS. Nonetheless, considering that this contract is for its own use and CEMEX sells any energy surplus as soon as actual energy requirements are known, regardless of changes in prices, thereby avoiding any intention of trading in energy, such contract is not recognized at its fair value.

In April 2008, Citibank entered into put option transactions on CEMEX's CPOs with a Mexican trust that CEMEX established on behalf of its Mexican pension fund and certain of CEMEX's directors and current and former employees ("the participating individuals"). The transaction was structured with two main components. Under the first component, the trust sold, for the benefit of CEMEX's Mexican pension fund, put options to Citibank in exchange for a premium of approximately US$38. The premium was deposited into the trust and was used to purchase, on a prepaid forward basis, securities that track the performance of the Mexican Stock Exchange. Under the second component, the trust sold, on behalf of the participating individuals, additional put options to Citibank in exchange for a premium of approximately US$38, which was used to purchase prepaid forward CPOs. These prepaid forward CPOs, together with additional CPOs representing an equal amount in U.S. dollars, were deposited into the trust by the participating individuals as security for their obligations, and represent the maximum exposure of the participating individuals under this transaction. The put options gave Citibank the right to require the trust to purchase, in April 2013, approximately 112 million CPOs at a price of US$3.2086 per CPO (120% of initial CPO price in dollars). If the value of the assets held in the trust (28.6 million CPOs and the securities that track the performance of the Mexican Stock Exchange) were insufficient to cover the obligations of the trust, a guarantee would be triggered and CEMEX, S.A.B. de C.V. would be required to purchase in April 2013 the total CPOs at a price per CPO equal to the difference between U.S$3.2086 and the market value of the assets of the trust. The purchase price per CPO in dollars and the corresponding number of CPOs under this transaction are subject to dividend adjustments. As of December 31, 2008, the fair value of the guarantee granted by CEMEX, S.A.B. de C.V. was approximately US$190 (Ps2,611), an amount that was recognized as a provision against the income statement within "Results from financial instruments." Based on the guarantee, CEMEX, S.A.B. de C.V. was required to deposit approximately US$193 (Ps2,652) in margin accounts, which according to the agreements with the counterpart, were offset with the obligation, resulting in a net asset of approximately US$3 (Ps41) as of December 31, 2008.

In connection with CEMEX's alliance with Ready Mix USA (note 8A), after the third year of the alliance starting on June 30, 2008, and each year for an approximate 22-year period, Ready Mix USA will have the right but not the obligation, to sell to CEMEX its interest in both entities at a predetermined price, based on the greater of: a) eight times the operating cash flow of the trailing twelve months, b) eight times the average of the companies' operating cash flow for the previous three years, or c) the net book value. CEMEX has not recognized a liability, considering that were the option to be exercised, the fair value of the assets would exceed the cost of the option.

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D) CONTRACTUAL OBLIGATIONS

As of December 31, 2008 and 2007, CEMEX has the following contractual obligations:

(U.S. dollars million) Obligations	2008					2007
	Less than 1 year	1-3 Years	3-5 Years	More than 5 Years	Total	Total
Long-term debt	US$ 4,161	8,565	1,396	1,876	15,998	18,100
Capital lease obligation	14	10	3	—	27	51
Total debt [1]	4,175	8,575	1,399	1,876	16,025	18,151
Operating leases [2]	214	339	228	179	960	841
Interest payments on debt [3]	357	566	213	136	1,272	2,624
Interest rate derivatives [4]	9	53	5	25	92	407
Pension plans and other benefits [5]	164	309	311	825	1,609	1,925
Inactive derivative financial instruments [6]	252	30	95	8	385	—
Total contractual obligations	US$ 5,171	9,872	2,251	3,049	20,343	23,948
	$ 71,050	135,641	30,929	41,893	279,513	261,513

[1] The scheduling of debt payments, which includes current maturities, does not consider the effect of any refinancing of debt that may occur during the following years. CEMEX has replaced in the past its long-term obligations for others of similar nature.

[2] The amounts of operating leases have been determined on the basis of nominal cash flows. CEMEX has operating leases, primarily for operating facilities, cement storage and distribution facilities and certain transportation and other equipment, under which annual rental payments are required plus the payment of certain operating expenses. Rental expense was US$198 (Ps2,239), US$195 (Ps2,129) and US$178 (Ps2,085) in 2008, 2007 and 2006, respectively.

[3] For the determination of the future estimated interest payments on the floating rate denominated debt, CEMEX used the interest rates in effect as of December 31, 2008 and 2007.

[4] The estimated cash flows under interest rate derivatives include the approximate cash flows under CEMEX's interest rate swaps and cross currency swap contracts, and represent the net amount between the rate CEMEX pays and the rate received under such contracts. In the determination of the future estimated cash flows, CEMEX used the interest rates applicable under such contracts as of December 31, 2008 and 2007.

[5] Amounts relating to planned funding of pensions and other post-retirement benefits represent estimated annual payments under these benefits for the next 10 years, determined in local currency and translated into U.S. dollars at the exchange rates as of December 31, 2008 and 2007. Future payments include the estimate of new retirees during such future years.

[6] Refers to estimated contractual obligations within positions of inactive derivative financial instruments (note 11D).

20. CONTINGENCIES

A) CONTINGENT LIABILITIES RESULTING FROM LEGAL PROCEEDINGS

As of December 31, 2008, CEMEX is involved in various significant legal proceedings, in which it is considered that their resolutions would imply cash outflows or the delivery of other resources owned by CEMEX. As a result, certain provisions have been recognized in the financial statements. Such provisions represent the best estimate of the amounts payable; therefore, CEMEX considers that it will not incur significant expenditure in excess of the amounts previously recorded. The detail of the most significant events is as follows:

- In 2005, through the acquisition of RMC, CEMEX assumed environmental remediation liabilities in the United Kingdom, for which as of December 31, 2008, CEMEX has generated a provision for the net present value of such obligation of approximately £125 (US$182 or Ps2,506). This environmental remediation liability refers to closed and current landfill sites for the confinement of waste, and expenditure has been assessed and quantified over the period in which the sites have the potential to cause environmental harm, which has been accepted by the regulator as being up to 60 years from the date of closure. The assessed expenditure relates to the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure.
- In August 2005, Cartel Damages Claims, S.A. ("CDC"), filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG, CEMEX's German subsidiary, and other German cement companies. By means of this lawsuit, CDC was seeking approximately €102 (US$143 or Ps1,959) in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002. CDC is a Belgian company established in the aftermath of the German cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office, with the purpose of purchasing potential damage claims from cement consumers and pursuing those claims against the cartel participants. During 2006, new alleged claims were assigned to CDC, and the amount of damages being sought by CDC increased to €114 (US$159 or Ps2,189) plus interest. In February 2007, the District Court in Düsseldorf allowed this procedure. All defendants appealed the resolution, which was dismissed in May 2008 and the lawsuit will proceed at the level of court of first instance. As of September 30, 2008, only one defendant had decided to file a complaint before the Supreme Court, a situation that will delay the case in proceeding at the level of first instance to an extent CEMEX cannot assess today. In the meantime, CDC had acquired new assigners and announced an increase in the claim to €131 (US$183 or Ps2,516). As of December 31, 2008, CEMEX Deutschland AG had accrued liabilities regarding this matter for approximately €20 (US$28 or Ps384).

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- As of December 31, 2008, CEMEX's subsidiaries in the United States have accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately US$43 (Ps591). The environmental matters relate to: a) in the past, in accordance with industry practices, disposing of various materials, which might be currently categorized as hazardous substances or wastes, and b) the cleanup of sites used or operated by CEMEX, including discontinued operations, regarding the disposal of hazardous substances or waste, either individually or jointly with other parties. Most of the proceedings are in the preliminary stage, and a final resolution might take several years. For purposes of recording the provision, CEMEX's subsidiaries consider that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. Based on the information developed to date, CEMEX's subsidiaries do not believe that they will be required to spend significant sums on these matters in excess of the amounts previously recorded. The ultimate cost that might be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work and negotiations with or litigation against potential sources of recovery have been completed.

B) OTHER LEGAL PROCEEDINGS

CEMEX is involved in various legal proceedings which, after considering all the elements of such proceedings, have not required the recognition of accruals since CEMEX considers that the probability of loss is reasonably remote. As of December 31, 2008, the details of the most significant events with a quantification of the potential loss are as follows:

- CEMEX, S.A.B. de C.V. and some of its subsidiaries in Mexico have been notified by the Mexican tax authority of several tax assessments related to different tax periods. Tax assessments are based primarily on investments made in entities incorporated in foreign countries with preferential tax regimes. On April 3, 2007, the Mexican tax authority issued a decree providing for a tax amnesty program, which allows for the settlement of previously issued tax assessments. CEMEX decided to take advantage of the benefits of this program, resulting in the settlement of a significant portion of the existing fiscal tax assessments of prior years. As a result of the program, as of December 31, 2008, CEMEX's total existing tax assessments amount to Ps49. CEMEX has appealed these tax assessments before the Mexican federal tax court, and the appeals are pending resolution.
- As of December 31, 2008, the Philippine Bureau of Internal Revenue had assessed CEMEX's indirect subsidiaries in the Philippines for deficiency taxes covering prior tax years amounting to approximately 1,994 million Philippine pesos (US$42 or Ps577). These tax assessments result primarily from disallowed determination of certain tax benefits from 1999 to 2001. The affected companies have appealed the resolutions that have not been favorable. Tax credits are currently on appeal before the Court of Tax Appeals ("CTA"). CEMEX's subsidiaries filed a motion with the CTA, requesting that the court hold CEMEX's subsidiaries not liable for the alleged income tax liabilities. As of December 31, 2008, resolution of the aforementioned motion is still pending. Regardless the procedures before the CTA, the subsidiaries involved decided to apply for, and avail themselves of, the Philippine tax amnesty program for tax credits related to 2005 and prior years. The subsidiaries delivered all the necessary documents and fully paid the amnesty tax according to the implementing regulations. The availment of the amnesty made the subsidiaries immune from tax credits assessed for 2005 and prior years. According to a CTA resolution in a similar case, in view of the taxpayer's compliance with the tax amnesty, the court considered the pending tax assessment case closed and terminated, and the tax deficiencies extinguished.
- In November 2008, AMEC/Zachary, the general contractor for the expansion program in Brooksville, Florida, filed a lawsuit against a subsidiary of CEMEX in the United States, alleging delay damages, seeking an equitable adjustment to the contract and payment of change orders. In its claim, AMEC/Zachary is seeking US$60 (Ps824) as compensation. CEMEX filed a counterclaim against AMEC/Zachary. At this stage in the proceedings, it is not possible to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX.
- On July 13, 2007, the Australian Takeovers Panel published a declaration of unacceptable circumstances, which mentioned that CEMEX's May 7, 2007 announcement that stated it would allow Rinker stockholders to retain the final dividend of 0.25 Australian dollar per share constituted a departure from CEMEX's announcement on April 10, 2007 which said that its offer of 15.85 dollars per share was its "best and final offer." The Panel ordered CEMEX to pay compensation of 0.25 Australian dollars per share to Rinker stockholders who sold their shares during the period from April 10 to May 7, 2007, net of any purchases that were made. CEMEX believes that the market was fully informed by its announcement made on April 10, 2007, and notes that the Takeovers Panel has made no finding that CEMEX breached any law. On September 27, the Review Panel issued an order confirming the application of previous rulings until further notice, pending CEMEX's application for judicial review of the Panel's decision. The hearings in the Federal Court of Australia concluded in May 2008 without a resolution. Although there is insufficient information about the exact amount, CEMEX estimates that the amount it would have to pay if the Panel's orders were affirmed could be approximately 15 millions of Australian dollars (US$11 or Ps146).

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- On January 2, 2007, the Polish Competition and Consumers Protection Office (the "Protection Office") notified CEMEX Polska, a subsidiary in Poland, about the initiation of an antitrust proceeding against all cement producers in the country, which include CEMEX's subsidiaries CEMEX Polska and Cementownia Chelm. The Protection Office alleges that there was an agreement between all cement producers in Poland regarding prices, market quotas and other sales conditions of cement, and that the producers exchanged confidential information, all of which limited competition in the Polish market of cement. On January 22, 2007, CEMEX Polska filed its response to the notification, denying firmly that it had committed the practices listed by the Protection Office, and submitted formal comments and objections gathered during the proceeding, as well as facts supporting its position and proving that its activities were in line with competition law. The Protection Office extended the date of the completion of the antitrust proceeding until December 20, 2008, and it is expected that there will be a further extension due to the fact that in November, the Protection Office delivered a new list of questions regarding the period 1998-2008. According to Polish competition law, the maximum fine could reach up to 10% of the total revenues of the fined company for the calendar year preceding the imposition of the fine. The estimated penalty applicable to the Polish subsidiaries would amount to approximately 118 million Polish zlotys (US$35 or Ps481). As of the date of these financial statements, CEMEX considers there are no justified grounds to expect fines to be imposed on CEMEX Polska. Nevertheless, at this stage of the proceeding it is not possible for CEMEX to predict that there would not be an adverse result in the investigation.
- In August 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia, claiming that it was liable along with the other members of the *Asociación Colombiana de Productores de Concreto*, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system in Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads and estimate that the cost of such repair will be approximately US$45 (Ps618). In December 2006, two ASOCRETO officers were formally accused as participants (determiners) in the execution of a state contract without fulfilling all legal requirements thereof. In November 2007, a judge dismissed an annulment petition filed by ASOCRETO's officers. This decision was appealed. On January 21, 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called "El Tujuelo", as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required to deposit with the court in cash 337,800 million of Colombian pesos (US$150 or Ps2,061), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. The measure does not affect the normal activity of the quarry. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.
- During 2001, the Ministry of Finance ("MOF") of Taiwan, in response to the claim of five Taiwanese cement producers, initiated a formal anti-dumping investigation involving imported gray Portland cement and clinker from the Philippines and South Korea. In July 2002, the MOF gave notice of a cement and clinker import duty, from imports on South Korea and the Philippines, beginning in July, 2002. The imposed tariff was 42% on imports from APO and Solid. In September 2002, these entities appealed the anti-dumping duty before the Taipei High Administrative Council ("THAC"). CEMEX did not appeal this resolution, which became final. The anti-dumping duty order is subject to review by the government after five years following its imposition to verify if conditions of harm to the local industry have changed and, if applicable, the government may revoke the anti-dumping duty. As a result of a request from the defendants in April 2007, the MOF initiated an investigation to evaluate if the order shall continue or be revoked at the end of the fifth year. On May 5, 2008, CEMEX received a resolution from the MOF, stating that the anti-dumping duty imposed on gray Portland cement and clinker imports from the Philippines and South Korea was terminated starting May 5, 2008.
- In 1990, the United States Department of Commerce imposed an anti-dumping duty order on imports of gray Portland cement and clinker from Mexico. As a result, since that year and until April 3, 2006, CEMEX paid anti-dumping duties for cement and clinker exports to the United States at rates that fluctuated between 37.49% and 80.75% over the transaction amount, and beginning in August 2003, anti-dumping duties were paid at a fixed rate of approximately 52.4 U.S. dollars per ton, which decreased to 32.9 U.S. dollars per ton starting in December, 2004 and to 26.3 U.S. dollars per ton in 2005. In January 2006, the Mexican and the United States governments reached an agreement that brought to an end the dispute over anti-dumping duties on Mexican cement exports to the United States. According to the agreement, restrictions imposed by the United States were eased during a three-year transition period and will be completely eliminated in early 2009, allowing cement from Mexico to enter the U.S. without duties or other limits on volumes. During the transition period, the anti-dumping duty was reduced to 3 U.S. dollars per ton, and imports were subject to volume limitations of up to 3 million tons of Mexican cement per year. This amount may be increased in response to market conditions, subject to a maximum increase per year of 4.5%. During the second year the amount increased 2.7%, while in the third year the amount decreased 3.1%. Quota allocations to entities that import Mexican cement into the U.S. was made on a regional basis. As a result of this agreement, CEMEX received a cash refund associated with the pre-January 2006 anti-dumping duties of approximately US$111 (Ps1,299) and eliminated a provision of approximately US$65, both of which were recognized in 2006 within "Other expenses, net."

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C) OTHER CONTINGENCIES FOR LEGAL PROCEEDINGS

In addition, there are certain legal proceedings in which a negative resolution for CEMEX may represent the revocation of operating licenses or the assessment of fines, in which case CEMEX would experience a decrease of future revenues, an increase in operating costs or a loss. Nevertheless, as of the date of these financial statements, in some cases, it is not possible to quantify the impact. As of December 31, 2008, the most significant cases are the following:

- Pursuant to amendments to the Mexican income tax law, which became effective on January 1, 2005, Mexican companies with investments in entities incorporated in foreign countries whose income tax liability is less than 75% of the income tax that would be payable in Mexico, are required to pay taxes in Mexico on indirect revenues, such as dividends, royalties, interest, capital gains and rental fees obtained by such foreign entities, provided that the revenues are not derived from entrepreneurial activities in such countries. CEMEX filed two motions in the Mexican federal courts challenging the constitutionality of the amendments. In September 2008, the Supreme Court of Justice ruled the amendments constitutional for tax years 2005 to 2007. Since the Supreme Court's decision does not pertain to an amount of taxes due or other tax obligations, CEMEX will self-assess any taxes due through the submission of amended tax returns. CEMEX has not yet determined the amount of tax or the periods affected. As of December 31, 2008, based on a preliminary estimate, CEMEX believes this amount will not be material, but no assurance can be given that additional analysis will not lead to a different conclusion. If the tax authorities do not agree with CEMEX's self-assessment of the taxes due for past periods, they may assess additional amounts of taxes past due, which may be material and may impact CEMEX cash flows.
- During the period from November 4 to 6, 2008, officers from the European Commission ("EC") assisted by local officials, conducted an unannounced inspection at CEMEX's offices in the United Kingdom and in Germany. It is understood that EC officials carried out unannounced inspections at the premises of other companies in the cement and related products industry in several European Community member states. The EC alleges that CEMEX may have participated in anti-competitive agreements and/or in abusive conduct, in breach of agreements of the EC and/or the European Economic Area. Investigations are extended to several markets in the world, particularly within the European Community. In the event that allegations are substantiated, CEMEX's subsidiaries which operate in the EU may be subject to significant penalties. CEMEX fully cooperated and will continue to cooperate with the EC officials in connection with the inspection.
- In connection with the sale to CEMEX España of non-Venezuelan assets of CEMEX Venezuela, which is detailed in note 10A, on June 13, 2008, the Venezuelan securities authority initiated an administrative proceeding against CEMEX Venezuela, claiming that the company did not sufficiently inform its shareholders and the securities authority in connection with the transfer of the non-Venezuelan assets. The Venezuelan authority determined that CEMEX Venezuela did not comply with its disclosure obligations and imposed fines on the company, which CEMEX considered not to be material, and the Venezuelan authority requested that the attorney general's office review the case to determine if such non-disclosure also constituted a crime.
- A Latvian environmental protection organization initiated a court administrative proceeding against the decision made by the Environment State Bureau ("the Bureau") to amend the environmental pollution permit for CEMEX's cement plant in Latvia. On June 5, 2008, the court issued a judgment which revoked the renewal of the permit stating that there was no public inquiry according with regulations. The judgment was appealed by the Bureau and CEMEX before the Court of Appeal, and the court is to hear the case on February 24, 2009. The appellate procedure will not suspend the operation of the permit which will remain valid throughout the court proceedings, allowing CEMEX to continue its activities. The permit subject to the proceeding was issued for the existing cement line, which will be fully replaced by a new cement line currently under construction.
- CEMEX Construction Materials Florida, LLC (previously Rinker Materials of Florida, Inc.), one of CEMEX's subsidiaries in the United States, holds one federal quarry permit and is the beneficiary of one of ten other federal quarrying permits granted for the Lake Belt area in South Florida, which cover one of CEMEX's largest aggregate quarries in that region. On March 22, 2006, the U.S. District Court for the Southern District of Florida issued a ruling in connection with litigation brought by environmental groups concerning the manner in which the permits were granted. Although not named as a defendant, CEMEX Construction Materials Florida has intervened in the proceedings to protect its interests. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the relevant governmental agencies in connection with the issuance of the permits. The judge remanded the permits to the relevant governmental agencies for further review. The judge also conducted further proceedings to determine the activities to be permitted during the review period. In July 2007, the judge issued a ruling that halted quarrying operations at three non-Rinker quarries. The judge determined to leave in place CEMEX's Lake Belt permits in operation until the government agencies conclude their review. CEMEX Construction Materials Florida and other producers involved have appealed the judge's resolutions. In a May 2008 ruling, the federal appellate court determined that the district court judge did not apply the proper standard of review to the permit issuance decision of the governmental agency, vacated the district court's prior order, and remanded the proceeding to the district court to apply the proper standard of review. This review remains pending before the district court judge. If the Lake Belt permits were ultimately removed or quarrying operations under them restricted, CEMEX would need to source aggregates, to the extent available, from other locations in Florida or import aggregates. This would likely increase CEMEX's operating costs in the United States.

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- In April 2006, the cities of Kastela and Solin in Croatia published their respective Master (physical) Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to a CEMEX's subsidiary in Croatia, by the Government of such country in September 2005. In May 2006, CEMEX filed several lawsuits in different courts seeking a declaration of its rights and demanding the prohibition of the implementation of the Master Plans. The municipal courts in Kastela and Solin have issued first instance judgments dismissing the possessory actions presented by CEMEX. These resolutions have been appealed. These cases are currently under review by the courts and applicable administrative entities in Croatia, and it is expected that these proceedings will continue for several years before resolution. Meanwhile, the administrative court in Croatia issued a favorable resolution for CEMEX, validating the legality of the mining concession granted by the Government of Croatia. This decision is final. Currently, it is difficult to determine the impact to be borne by CEMEX as a result of the resolution of the Kastela and Solin litigations.

In addition to the above, as of December 31, 2008, there are various legal proceedings of minor impact that have arisen in the ordinary course of business. These proceedings involve: 1) product warranty claims; 2) claims for environmental damages; 3) indemnification claims relating to acquisitions; 4) claims to revoke permits and/or concessions; and 5) other diverse civil actions. CEMEX considers that in those instances in which obligations have been incurred, CEMEX has accrued adequate provisions to cover the related risks. CEMEX believes these matters will be resolved without any significant effect on its business.

Likewise, as of December 31, 2008, the tax returns submitted by some subsidiaries of CEMEX located in several countries are under ordinary review by the respective tax authorities in the ordinary course of business. CEMEX cannot anticipate if such reviews will result in new tax assessments, which, should any exist, would be appropriately disclosed and/or recognized in the financial statements.

21. RELATED PARTIES

All significant balances and transactions between the entities that constitute the CEMEX group have been eliminated in the preparation of the consolidated financial statements. These balances with related parties result primarily from: (i) the sale and purchase of goods between group entities; (ii) the sale and/or acquisition of subsidiaries' shares within the CEMEX group; (iii) the invoicing of administrative services, rentals, trademarks and commercial name rights, royalties and other services rendered between group entities; and (iv) loans between related parties. Transactions between group entities are conducted on arm's length terms based on market prices and conditions.

The definition of related parties includes entities or individuals outside the CEMEX group, which, pursuant to their relationship with CEMEX, may take advantage of being in a privileged situation. Likewise, this applies to cases in which CEMEX may take advantage of such relationships and obtain benefits in its financial position or operating results. CEMEX's transactions with related parties are executed under market conditions. CEMEX has identified the following transactions between related parties:

- Mr. Bernardo Quintana Isaac, a member of the board of directors of CEMEX, S.A.B. de C.V., is the current chairman of the board of directors of *Empresas ICA, S.A.B. de C.V.* ("Empresas ICA"), and was its chief executive officer until December 31, 2006. Empresas ICA is one of the most important engineering and construction companies in Mexico. In the ordinary course of business, CEMEX extends financing to Empresas ICA in connection with the purchase of CEMEX's products, on the same credit conditions that CEMEX awards to other customers.
- In the past, CEMEX extended loans of varying amounts and interest rates to its board members and top management executives, which were fully paid in 2006. As of December 31, 2008 and 2007, there are no loans between CEMEX and board members or top management executives.
- For the years ended December 31, 2008, 2007 and 2006, the aggregate amount of compensation paid by CEMEX, S.A.B. de C.V. and subsidiaries to its board of directors, including alternate directors and top management executives, was approximately US$28 (Ps314), US$31 (Ps339) and US$41 (Ps480), respectively. Of these amounts, approximately US$12 (Ps134) in 2008, US$14 (Ps153) in 2007 and US$14 (Ps164) in 2006, were paid as compensation plus performance bonuses, while approximately US$16 (Ps179) in 2008, US$17 (Ps186) in 2007 and US$27 (Ps316) in 2006, corresponded to payments under the long-term incentive program for the purchase of restricted CPOs.

22. LIQUIDITY AND MANAGEMENT PLANS

During 2008 and continuing into 2009, CEMEX's liquidity position and operating performance is being negatively affected by adverse economic and industry conditions in several of its main operating segments brought on by the downturn in the global construction industry and the global credit market crisis. As of December 31, 2008, CEMEX had approximately Ps95,270 (US$6,934) of debt (including the current portion of long-term debt) due in the following 12 months in accordance with the terms of the debt instruments. In addition, CEMEX had an excess of current liabilities over current assets of approximately Ps84,542 (US$6,153). These factors raise substantial doubt concerning CEMEX's ability to continue operating as a going concern. The ability of CEMEX to continue operating as a going concern is dependent upon its ability to complete the bank refinancing described in the following paragraphs or otherwise obtain additional debt or equity financial resources to pay CEMEX's obligations as they become due. The 2008 consolidated financial statements do not contain any adjustments that might result from the outcome of this uncertainty. As of May 31, 2009 (unaudited), CEMEX had approximately US$4,284 of debt (including current portion of long-term debt) maturing during the rest of 2009, and US$3,882 and US$7,845 maturing in 2010 and 2011, respectively.

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In response to the factors described in the preceding paragraph, CEMEX's management has developed a consolidated cash flow plan, including the refinancing of a significant portion of its outstanding bank debt currently underway, together with other initiatives that include the sale of certain non strategic assets, the issuance of equity or equity linked securities and the placement of fixed income debt securities, that, if executed successfully, will provide sufficient liquidity to finance CEMEX's anticipated working capital, capital expenditures, and debt obligations over the next 12 months. As mentioned above, CEMEX is in the process of refinancing a significant portion of its outstanding debt to periods beyond 2009. In connection with this effort, which follows the January 2009 refinancing of a portion of its bilateral and syndicated loan facilities described in note 23, certain consolidated entities, including CEMEX, S.A.B. de C.V. and CEMEX España, S.A., are currently operating under a Conditional Waiver and Extension Agreement ("CWEA") with its lenders through July 31, 2009.

On March 9, 2009, CEMEX initiated discussions with its core banks to renegotiate the majority of its outstanding debt, or approximately US$14,500 in syndicated and bilateral obligations, under the CWEA. The lenders party to the CWEA have agreed to extend scheduled principal payment obligations which were originally due between March 24, 2009 and July 31, 2009, to July 31, 2009, date in which the global refinancing should be completed. CEMEX entered into the CWEA to have time to negotiate a broader debt refinancing. As of June 26, 2009 (unaudited), payments in an aggregate principal amount of approximately US$1,166 have been extended under the CWEA. If the global refinancing agreement is not entered into prior to the expiration of the CWEA (currently scheduled for July 31, 2009), the extended amounts will become immediately due and payable and the remaining amounts under the relevant facilities in an aggregate principal amount of approximately US$12,924 as of June 26, 2009 (unaudited) will be capable of being accelerated by a vote of the requisite lenders under each relevant facility. Additionally, under the CWEA, a termination event may occur in a variety of situations that are not in CEMEX's control.

While the discussions are ongoing, CEMEX intends to meet all its obligations across both bank and capital markets debt. In addition, while CEMEX is currently focused on this course of action as the best opportunity to quickly achieve maximum financial flexibility, it will continue to consider other strategies including asset sales. Completion of the bank debt renegotiation process may require consent from all the lenders under the corresponding facilities. Ultimately, the implementation of any bank refinancing and/or extensions is subject to obtaining the necessary commitments from all the financial institutions and to the satisfactory completion of final documentation and satisfaction of customary conditions. As of the date of these financial statements, there are no assurances that CEMEX's management will be able to successfully execute the respective elements of this plan prior to July 31, 2009 or to extend the CWEA to a later date. If the CWEA expires or terminates, and CEMEX is unable to pay the extended amounts and any accelerated amounts, this would trigger a payment default under the relevant bank facilities, which would trigger defaults under other debt of CEMEX. The global refinancing plan may include a requirement to issue debt and/or equity securities in specified instances, a prohibition on payment of cash dividends, and banks may require CEMEX to encumber or segregate certain assets, in which case, if CEMEX is unable to meet amortization requirements and cannot refinance the debt, the lenders under the refinancing plan could have the right to exercise remedies and foreclosure on the pledged assets.

During April 2009, as part of certain agreements entered into in the CWEA agreement described above and in order to reduce the risk to cash margin deposits, CEMEX finished the closing of a significant portion of its active and inactive derivative financial instruments held as of December 31, 2008 (note 11C and D). By means of this termination, CEMEX incurred an aggregate loss of approximately US$1,093 (unaudited), which after netting approximately US$624 of cash margin deposits already posted in favor of CEMEX's counterparties and cash payments of approximately US$48, was documented through promissory notes for approximately US$421, which increased CEMEX's outstanding debt. A comparison of CEMEX's derivative instruments portfolio between December 31, 2008 and April 30, 2009 is as follows:

	December 31, 2008		April 30, 2009 (unaudited)	
(U.S. dollars millions)	Nominal	Fair value [1]	Nominal	Fair value [1]
Active positions				
Derivative financial instruments related to debt	US$ 16,416	(4)	—	—
Other derivative financial instruments	877	(36)	301	36
Derivative financial instruments related to equity instruments [2]	3,520	222	3,841	55
	20,813	182	4,142	91
Inactive positions [3]				
Short-term and long-term cross currency swaps	—	(113)	—	—
Short-term and long-term foreign exchange forwards	—	(272)	—	—
	—	(385)	—	—
	US$ 20,813	(203)	4,142	91

[1] At December 31, 2008 and April 30, 2009 (unaudited), the fair value of CEMEX's derivative instruments is presented net of cash margin deposits of approximately US$570 and US$54, respectively, and excludes approximately US$193 in 2008 and US$267 in April 2009, of cash margin deposits associated to CEMEX's obligations under put option transactions on CEMEX's CPOs (note 19C).

[2] As of April 30, 2009 (unaudited), the nominal amount of "Derivative financial instruments related to equity instruments" includes approximately US$373 of put options on CEMEX's CPOs mentioned above, which present an estimated fair value loss of approximately US$211 million, which net of cash margin deposits of approximately US$213 results in a net asset of approximately US$2. At December 31, 2008, these instruments were recognized at fair value and disclosed as a guarantee obligation (note 19C) rather than as a derivative instrument.

[3] The nominal amounts of the original derivative positions and the opposite derivative positions at December 31, 2008, are not aggregated, considering that the effects of one instrument are proportionally inverse to the effects of the other instrument, and therefore eliminated.

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As a result of this initiative, our outstanding debt profile reflects the original contractual conditions of our obligations. As of May 31, 2009 (unaudited), our total debt was approximately Ps254,312 (US$19,354 considering CEMEX's accounting exchange rate at May 31, 2009, of Ps13.14 per US$), of which approximately 60.9% was Dollar denominated, approximately 25.0% was denominated in Euros, approximately 12.8% was denominated in Pesos, approximately 0.6% was Yen denominated and approximately 0.7% was denominated in other currencies. As of such date, CEMEX's total debt interest rate profile was approximately 89% floating and 11% fixed interest rate, and approximately US$4,587 was short term and US$14,767 was long term.

23. SUBSEQUENT EVENTS

On January 27, 2009, CEMEX and its creditors agreed to extend a portion of its short-term debt, by means of which, considering an exchange rate of Ps13.74 Mexican pesos per dollar as of December 31, 2008, approximately Ps27,288 (US$1,986) of such short-term debt will mature in the year 2010 and approximately Ps14,537 (US$1,058) will mature in the year 2011. The aforementioned extension is the successful first step in a global refinancing plan announced in December 2008, which is intended to: a) negotiate new long-term syndicated facilities to replace existing short-term bilateral credits; b) extend the maturity by one year of a portion of the US$3,000 syndicated loan related to the acquisition of Rinker, which matures in December 2009; and c) amend the leverage ratio, among other conditions, of certain existing syndicated loan facilities. The last objective was concluded on December 19, 2008 (note 11A).

In January 2009, in connection with the legal proceeding detailed in note 20C related to the review process of CEMEX's extraction permits covering certain aggregates quarries in the Lake Belt area in South Florida, the judge appointed to the case issued an order that removed CEMEX's extraction permits associated with three of such quarries. The order does not limit the processing of the material that has previously been removed from these quarries; consequently, CEMEX's operations will continue for several months. Likewise, the order does not affect the ongoing operations of the other quarries located in the same area or in the state of Florida.

As of February 3, 2009, in connection with the deposits in margin accounts made with financial institutions as of December 31, 2008 which guarantee obligations incurred through derivative financial instruments (notes 11B and 22), and that are presented net with CEMEX's liabilities with such counterparties, CEMEX agreed with the financial institutions to the settlement of a portion of the obligations. The counterparts received from CEMEX the instruction to withdraw part of the amounts deposited in such margin accounts for an amount of approximately US$392 (Ps5,386), of which approximately US$102 (Ps1,401) refers to active derivative positions (notes 11C and 22), while approximately US$290 (Ps3,985) refers to inactive derivative positions (notes 11D and 22).

On February 4, 2009, as part of the strategies implemented to maintain its liquidity (note 22), CEMEX announced a plan intended to reduce its debt during 2009 by approximately US$3,600 (Ps49,464). It is expected that approximately between US$1,700 (Ps23,358) and US$1,900 (Ps26,106) of the required resources for this reduction will be obtained from the sale of non-strategic assets in several locations around the world. The pertinent negotiations related to these sales are in different stages of progress (unaudited).

During the first quarter of 2009, CEMEX was notified of two findings of presumptive responsibility against CEMEX's subsidiary in Mexico issued by the Mexican competition authority (*Comisión Federal de Competencia*), alleging certain violations of Mexican antitrust laws. CEMEX believes these findings have several procedural errors and are unfounded on the merits. CEMEX filed its responses to these findings on February 27, 2009 and May 19, 2009, and expect procedures to continue for several months before resolution.

According to a notification dated April 29, 2009 (unaudited), in connection with the antitrust proceeding against eight cement producers in Poland, which include CEMEX Polska, the Protection Office notified CEMEX Polska of its decision to extend the antitrust proceeding until June 20, 2009, due to the complexity of the case. As of the date of this annual report, CEMEX has no information regarding further developments on this legal assessment.

As of the date of this annual report, in connection with CEMEX's securitization programs for the sale of trade receivables (note 4), its Mexican program for a principal amount of approximately US$260 as of May 31, 2009, has scheduled commitment expiration date by July 2009. CEMEX has made progress in its current negotiation with financial institutions to extend the Mexican program before its maturity. If CEMEX is unable to extend this transaction on reasonable terms or at all, it would have a negative impact on its liquidity and financial condition. On June 24, 2009, CEMEX extended its securitization program in France until May 24, 2010 provided that the CWEA is not terminated and the global refinancing is completed in a form satisfactory to the program sponsor. In addition, on June 26, 2009, CEMEX entered into a one-year extension of its securitization program in the U.S. for up to US$300 in funded amounts and replaces expiring prior program.

On May 20, 2009, in connection with the Latvian administrative proceeding disclosed in note 20C, the Court of Appeal decided that the Bureau must supplement the Permit with the requirements applicable as of January 1, 2008 on the emission limits of hard particles for clinker melting-on stove. This amendment to the Permit will not adversely affect CEMEX's operations in the existing plant, unless the competent authorities decide to lower the emission limit. The rest of the Applicant's claims, who is a Latvian environmental protection organization, were rejected by the court. The judgment may be appealed by the Applicant before the Senate of Supreme Court no later than June 19, 2009. As of the date of this annual report, the Applicant has not appealed the judgment.

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On June 15, 2009, CEMEX sold three quarries (located in Nebraska, Wyoming and Utah) and our 49% interest of a joint venture in a quarry operations (located in Granite Canyon, Wyoming) to Martin Marrietta Materials, Inc. for approximately US$65.

On June 15, 2009, CEMEX reached an agreement for the sale of its Australian operations to Holcim for approximately 2.02 billion Australian dollars (approximately US$1.62 billion or Ps21.7 billion considering the exchange rate of 1.25 AUD$ per US dollar and Ps13.39 per US dollar, respectively, at June 15, 2009). All the net proceeds of the sale will be used to reduce debt. The transaction is subject to regulatory approval, due diligence and other closing conditions. The transaction with Holcim includes the sale of all of CEMEX's facilities in Australia. These include 249 ready-mix plants, 83 aggregate quarries, 16 concrete pipe and precast products plants, and CEMEX's 25% stake in Cement Australia. As of and for the year ended December 31, 2008, CEMEX's Australian operations amounted to approximately 5%, 7% and 8% of CEMEX's consolidated total assets, net sales and operating income, respectively. As of December 31, 2008, CEMEX's net assets in Australia amounted to approximately Ps25.1 billion (US$1.83 billion). As of the date of this annual report, considering that the consolidation of the June 30, 2009 financial statements is still underway, as well as the due diligence process and other closing conditions, CEMEX cannot reasonably estimate the result in the sale of these assets. For accounting purposes under MFRS, CEMEX's Australian operations will be presented as discontinued operations in the 2009 financial statements and in the comparative prior periods. According to MFRS, the result on the sale of these assets will represent the difference between the carrying amount of the net assets as of the date of the sale and the final selling price plus or minus any cumulative foreign currency translation effects recognized in equity, and will be recognized as part of the discontinued operations line item.

Condensed balance sheets of CEMEX's operations in Australia as of December 31, 2008 and 2007 are as follows:

	2008	2007
Total assets	Ps 30,712	25,724
Total liabilities	5,616	2,929
Total net assets	Ps25,096	22,795

The following table presents condensed selected income statement information for CEMEX's operations in Australia for the years ended December 31, 2008 and 2007:

	2008	2007 [1]
Sales	Ps17,536	8,633
Operating income	2,364	1,177

[1] The consolidated income statement of CEMEX in 2007, includes the results of CEMEX's Australian operations for only the six month period ended December 31, 2007.

In June 2009, CEMEX was informed that the Texas General Land Office is alleging that CEMEX failed to pay approximately US$550 in royalties related to mining by CEMEX and its predecessors since the 1940s on lands that, when transferred originally by the State of Texas, contained reservation of mineral rights. CEMEX is analyzing this claim and intends to defend it vigorously.

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24. MAIN SUBSIDIARIES

The main subsidiaries as of December 31, 2008 and 2007, are as follows:

Subsidiary	Country	% interest 2008	% interest 2007
CEMEX México, S. A. de C.V. [1]	Mexico	100.0	100.0
CEMEX España, S.A. [2]	Spain	99.8	99.8
CEMEX Venezuela, S.A.C.A. [3]	Venezuela	—	75.7
CEMEX, Inc. [4]	United States of America	100.0	100.0
CEMEX (Costa Rica), S.A.	Costa Rica	99.1	99.1
Assiut Cement Company	Egypt	95.8	95.8
CEMEX Colombia S.A.	Colombia	99.7	99.7
Cement Bayano, S.A.	Panama	99.5	99.5
CEMEX Dominicana, S.A.	Dominican Republic	99.9	99.9
CEMEX de Puerto Rico Inc.	Puerto Rico	100.0	100.0
CEMEX France Gestion (S.A.S.)	France	100.0	100.0
CEMEX Australia Pty. Ltd. [4]	Australia	100.0	100.0
CEMEX Asia Holdings Ltd. [5]	Singapore	100.0	100.0
Solid Cement Corporation [5]	Philippines	100.0	100.0
APO Cement Corporation [5]	Philippines	100.0	100.0
CEMEX (Thailand) Co., Ltd. [5]	Thailand	100.0	100.0
CEMEX U.K.	United Kingdom	100.0	100.0
CEMEX Investments Limited	United Kingdom	100.0	100.0
CEMEX Deutschland, AG.	Germany	100.0	100.0
CEMEX Austria plc.	Austria	100.0	100.0
Dalmacijacement d.d.	Croatia	100.0	99.2
CEMEX Czech Operations, s.r.o.	Czech Republic	100.0	100.0
CEMEX Polska sp. Z.o.o.	Poland	100.0	100.0
Danubiusbeton Betonkészító Kft.	Hungary	100.0	100.0
Readymix PLC. [6]	Ireland	61.7	61.7
CEMEX Holdings (Israel) Ltd.	Israel	100.0	100.0
CEMEX SIA	Latvia	100.0	100.0
CEMEX Topmix LLC, Gulf Quarries LLC, CEMEX Supermix LLC and CEMEX Falcon LLC [7]	United Arab Emirates	100.0	100.0

1. CEMEX México, S.A. de C.V. is the indirect holding company of CEMEX España, S.A. and subsidiaries.
2. CEMEX España, S.A. is the indirect holding company of all CEMEX's international operations.
3. CEMEX Venezuela, S.A.C.A. was expropriated by the Government of Venezuela on August 18, 2008 (note 10A).
4. CEMEX Inc. is the indirect holding company of 100% of the common stock of Rinker Materials LLC's equity, while CEMEX Australia Pty. Ltd. is the holding company of 100% of the common stock of Rinker Group Pty Ltd.
5. Represents CEMEX's indirect interest in the economic benefits of these entities.
6. Companies listed on the stock exchange of their respective countries.
7. CEMEX owns 49% of the common stock of these entities and obtains 100% of the economic benefits, through arrangements with other stockholders.

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25. DIFFERENCES BETWEEN MEXICAN AND UNITED STATES ACCOUNTING PRINCIPLES

(a) Basis of Presentation under U.S. GAAP

The consolidated financial statements are prepared in accordance with Mexican Financial Reporting Standards ("MFRS"), which differ in certain significant respects from generally accepted accounting principles applicable in the United States ("U.S. GAAP"). The term "SFAS" as used herein refers to U.S. Statements of Financial Accounting Standards. Likewise, the term "FASB" refers to the U.S. Financial Accounting Standards Board.

As detailed in note 2A, until December 31, 2007, the MFRS consolidated financial statements included the effects of inflation, whereas financial statements prepared under U.S. GAAP are presented on a historical cost basis. The reconciliation to U.S. GAAP includes: (i) a reconciling item in net income and stockholders' equity for the reversal of the restatement to constant pesos at December 31, 2007 of the financial statements under MFRS for the year ended December 31, 2006; and (ii) a reconciling item to reflect the difference in the carrying value of machinery and equipment of foreign origin and related depreciation between the methodology set forth by MFRS B-10 until December 31, 2007 and the amounts that would be determined by using the historical cost/constant currency method. As described below, these provisions of inflation accounting under MFRS did not meet the requirements of Rule 3-20 of Regulation S-X of the Securities and Exchange Commission. The reconciliation does not include the reversal of other MFRS inflation accounting adjustments as these adjustments represented a comprehensive measure of the effects of price level changes in the Mexican economy and, as such, were considered a more meaningful presentation than historical cost-based financial reporting for both Mexican and U.S. accounting purposes.

Reconciliation of net income under MFRS to U.S. GAAP

For the years ended December 31, 2008, 2007 and 2006, the main differences between MFRS and U.S. GAAP, and their effect on consolidated net income and earnings per share, are presented below:

		2008	2007	2006
	Net income reported under MFRS	Ps 2,278	26,108	27,855
	Inflation adjustment [1]	—	—	(1,151)
	Net income reported under MFRS after inflation adjustment	2,278	26,108	26,704
	U.S. GAAP adjustments having the effect of increasing reported net income:			
1.	Fair value measurements (note 25(j))	1,305	—	—
2.	Employees' statutory profit sharing (note 25(c))	195	226	—
3.	Employee benefits (note 25(e))	104	61	136
4.	Other adjustments – Deferred charges (notes 25(c) and (m))	225	122	120
5.	Other adjustments – Capitalized interest (note 25(m))	—	252	3
6.	Other adjustments – Monetary position result (note 25(m))	—	588	179
7.	Depreciation (note 25(g))	—	10	56
8.	Equity in net income of associate companies (note 25(h))	—	7	122
9.	Income taxes (note 25(c))	—	—	1,005
10.	Minority interest – effect of U.S. GAAP adjustments (note 25(f))	—	—	14
	U.S. GAAP adjustments having the effect of decreasing reported net income:			
1.	Impairment of long-lived assets (note 25(l))	(46,077)	—	—
2.	Income taxes (note 25(c))	(7,748)	(1,103)	—
3.	Hedge accounting (note 25(j))	(7,716)	(339)	(454)
4.	Minority interest – financing transactions (note 25(f))	(2,596)	(1,847)	(152)
5.	Accounting for uncertainty in income taxes (note 25(d))	(1,584)	(2,188)	—
6.	Inflation adjustment of machinery and equipment (note 25(i))	(272)	(291)	(307)
7.	Minority interest – effect of U.S. GAAP adjustments (note 25(f))	—	(239)	—
8.	Employees' statutory profit sharing (note 25(c))	—	—	(111)
	U.S. GAAP adjustments before cumulative effect of accounting change	(64,164)	(4,741)	611
	Net income (loss) under U.S. GAAP before cumulative effect of accounting change	(61,886)	21,367	27,315
	Cumulative effect of accounting change (SFAS 123R – note 25(k))	—	—	(931)
	Net income (loss) under U.S. GAAP after cumulative effect of accounting change	Ps (61,886)	21,367	26,384
	Basic EPS under U.S. GAAP before cumulative effect of accounting change	Ps (2.69)	0.96	1.27
	Diluted EPS under U.S. GAAP before cumulative effect of accounting change	(2.69)	0.96	1.27
	Basic EPS under U.S. GAAP after cumulative effect of accounting change	Ps (2.69)	0.96	1.23
	Diluted EPS under U.S. GAAP after cumulative effect of accounting change	(2.69)	0.96	1.23

[1] Adjustment that reverses the restatement of prior periods into constant pesos at December 31, 2007, using CEMEX's weighted average inflation factor (note 2B), and restates such prior periods into constant pesos at December 31, 2007 using the Mexican restatement inflation factor.

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The reconciling item cumulative effect of accounting change in the reconciliation of net income to U.S. GAAP presented above for the year ended December 31, 2006, relates to the adoption of SFAS 123R, *Share-Based Payment* ("SFAS 123R"), details of which are described in note 25(k).

The following table presents a summarized consolidated statement of operations for the year ended December 31, 2008, and summarized consolidated income statements for the years ended December 31, 2007 and 2006 under U.S. GAAP, which include all reconciling items described in this note 25 as well as certain other reclassifications required for purposes of U.S. GAAP:

	2008	2007	2006
Net sales	Ps 242,341	235,258	203,660
Operating income (loss) [2]	(40,504)	29,844	32,804
Operating income (loss) after other expenses, net	(39,722)	29,102	32,389
Minority interest net income	44	1,074	1,226
Majority interest net income (loss) before cumulative effect of accounting change	(61,886)	21,367	27,315
Cumulative effect of accounting change	—	—	(931)
Majority interest net income (loss)	Ps (61,886)	21,367	26,384

[2] Impairment losses as well as current and deferred Employee Statutory Profit Sharing under U.S. GAAP are included in the determination of operating income. Under MFRS, these items are part of other expenses, net. In addition, as mentioned in note 2T, under MFRS, for the years ended December 31, 2008, 2007 and 2006, other expenses, net, include several unusual or non-recurring transactions, such as restructuring costs (severance payments), anti-dumping duties, results from sales of assets and impairment losses. In the summarized statement of operations and income statements under U.S. GAAP, expense of Ps70,821 in 2008, expense of Ps2,182 in 2007 and income of Ps214 in 2006, were reclassified from other expenses, net, under MFRS to operating expenses under U.S. GAAP.

Reconciliation of stockholders' equity under MFRS to U.S. GAAP

At December 31, 2008 and 2007, the other main differences between MFRS and U.S. GAAP, and their effect on consolidated stockholders' equity, with an explanation of the adjustments, are presented below:

		2008	2007
	Total stockholders' equity reported under MFRS	Ps 237,267	204,153
	U.S. GAAP adjustments:		
1.	Goodwill (notes 25(b) and (l))	(31,502)	11,675
2.	Other intangible assets (note 25(l))	(179)	—
3.	Income taxes (note 25(c))	309	670
4.	Deferred employees' statutory profit sharing (note 25(c))	—	(2,740)
5.	Accounting for uncertainty in income taxes (note 25(d))	(10,236)	(2,105)
6.	Employee benefits (note 25(e))	(3,998)	(64)
7.	Minority interest – Financing transactions (note 25(f))	(41,495)	(33,470)
8.	Minority interest – U.S. GAAP presentation (note 25(f))	(5,105)	(8,010)
9.	Investment in net assets of associate companies (note 25(h))	—	(135)
10.	Inflation adjustment for machinery and equipment (note 25(i))	4,164	5,479
11.	Fair value measurements (note 25(j))	1,305	—
12.	Other adjustments – Deferred charges (note 25(m))	440	(20)
13.	Other adjustments – Capitalized interest (note 25(m))	324	317
	U.S. GAAP adjustments	(85,973)	(28,403)
	Stockholders' equity under U.S. GAAP before cumulative effect of accounting changes	151,294	175,750
	Cumulative effect of accounting change (FIN 48 – note 25(d))	—	(3,533)
	Stockholders' equity under U.S. GAAP after cumulative effect of accounting changes	Ps 151,294	172,217

The reconciling item cumulative effect of accounting change in the reconciliation of stockholders' equity to U.S. GAAP presented above as of December 31, 2007, relates to the adoption of FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes* ("FIN 48"), an interpretation of SFAS No. 109, *Accounting for Income Taxes*, details of which are described in note 25(c).

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The following table presents summarized consolidated balance sheets at December 31, 2008 and 2007, prepared under U.S. GAAP, including all reconciling items and reclassifications as compared to MFRS described in this note 25:

	At December 31, 2008			At December 31, 2007		
	MFRS	Change	U.S. GAAP	MFRS	Change	U.S. GAAP
Current assets [1]	Ps 68,195	4,731	72,926	61,244	1,156	62,400
Investments in associates, other investments and non-current accounts receivable [2]	38,833	2,451	41,284	21,559	735	22,294
Property, machinery and equipment [3, 4]	281,858	11,438	293,296	262,189	10,788	272,977
Goodwill, intangible assets and deferred charges	234,736	(37,161)	197,575	197,322	8,572	205,894
Total assets	623,622	(18,541)	605,081	542,314	21,251	563,565
Current liabilities [1, 5]	152,737	3,600	156,337	83,388	19,916	103,304
Long-term debt	162,824	5	162,829	180,654	(16,139)	164,515
Other non-current liabilities	70,794	17,227	88,021	74,119	7,930	82,049
Perpetual debentures	—	41,495	41,495	—	33,470	33,470
Minority interest	—	5,105	5,105	—	8,010	8,010
Total liabilities	386,355	67,432	453,787	338,161	53,187	391,348
Consolidated stockholders' equity	237,267	(85,973)	151,294	204,153	(31,936)	172,217
Total liabilities, minority interest and stockholders' equity	Ps623,622	(18,541)	605,081	542,314	21,251	563,565

Additional reclassifications under U.S. GAAP

The summarized financial information under U.S. GAAP presented in the tables above includes several reclassifications as compared to the consolidated financial statements under MFRS. The main reclassifications at December 31, 2008 and 2007 and for the years ended December 31, 2008, 2007 and 2006 are as follows:

[1] In connection with deferred income taxes, at December 31, 2008 and 2007, current assets under U.S. GAAP include Ps6,027 and Ps2,088, respectively, which are considered non-current items under MFRS. Likewise, current liabilities under U.S. GAAP include Ps3,542 in 2008 and Ps4,459 in 2007 classified as non-current items under MFRS.

[2] CEMEX accounts for its investments in entities under joint control, principally located in Spain, using the proportional consolidation method (note 2C), incorporating line-by-line all assets, liabilities, revenues and expenses according to CEMEX's equity ownership. Under U.S. GAAP, these investments are accounted for by the equity method; therefore, all assets, liabilities, revenues and expenses at December 31, 2007 and for the years ended December 31, 2008, 2007 and 2006 related to such joint controlled entities were removed line-by-line against the equity in associates for both balance sheets and income statements. As mentioned in note 10A, during December 2008 CEMEX sold the assets and operations in Spain that were consolidated under the proportional consolidation method.

[3] Assets classified as held for sale under MFRS (note 7) for approximately Ps1,454 and Ps440, as of December 31, 2008 and 2007, respectively, were reclassified to long-term assets in the condensed financial information of balance sheet under U.S. GAAP. These assets are stated at their estimated fair value. Estimated costs to sell these assets are not significant.

[4] At December 31, 2008 and 2007, extraction rights in the aggregates sector of approximately Ps7,365 (U.S.$536) and Ps5,405 (U.S.$495) (note 10), recognized as intangible assets under MFRS, were reclassified as part of the book value of the quarries in property, plant and equipment under U.S. GAAP, in accordance with EITF 04-2, *Whether Mineral Rights are Tangible or Intangible Assets*.

[5] At December 31, 2007, CEMEX reclassified short-term debt to long-term debt under MFRS (note 11A) for approximately U.S.$1,477 (Ps16,129). In the condensed balance sheets under U.S. GAAP, this reclassification was reversed considering that the agreements contained "Material Adverse Events" clauses, which are CEMEX's customary covenants. As of December 31, 2008, there is no short-term debt classified as long-term debt.

In accordance with Regulation S-X, the MFRS and U.S. GAAP amounts for 2006 in note 25 were restated into constant pesos at December 31, 2007, using the Mexican inflation factor instead of the weighted average inflation factor (note 2B); with the exception of those amounts for 2006 that are also disclosed in notes 1 to 24, in order to have more straightforward cross-references between note 25 and the MFRS notes.

(b) Goodwill

Goodwill recognized under MFRS (note 10) has been adjusted for U.S. GAAP purposes for: (i) the effect on goodwill from the U.S. GAAP adjustments as of the acquisition dates; (ii) beginning January 1, 2002, goodwill is not amortized under U.S. GAAP, while under MFRS goodwill was amortized until December 31, 2004; and (iii) until December 31, 2003, goodwill under MFRS was carried in the functional currencies of the holding companies for the reporting units, was translated into pesos and was then restated using the Mexican inflation index, while under U.S. GAAP, goodwill is carried in the functional currencies of the reporting units, is restated if applicable under MFRS by the inflation factor of the reporting unit's country, and is translated into Mexican pesos at the exchange rates prevailing at the reporting date. Goodwill generated beginning January 1, 2005 under MFRS is carried consistently with the accounting policy for goodwill under U.S. GAAP.

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The reconciliation of goodwill under MFRS and U.S. GAAP for the years ended December 31, 2008, 2007 and 2006 is as follows:

	2008	2007	2006
Goodwill under MFRS	Ps164,608	151,409	56,546
Cumulative U.S. GAAP adjustments	(31,502)	11,675	8,509
Goodwill under U.S. GAAP	133,106	163,084	65,055
U.S. GAAP adjustments:			
Cumulative U.S. GAAP adjustments at beginning of year	11,675	8,509	5,158
Foreign exchange results and inflation effects	2,721	3,166	3,351
Impairment charges (see note 25(l))	(45,898)	—	—
Cumulative U.S. GAAP adjustments at end of year	Ps (31,502)	11,675	8,509

(c) Income Taxes and Employees' Statutory Profit Sharing

Deferred Income Taxes

Under MFRS, CEMEX determines deferred income taxes in a manner similar to U.S. GAAP (note 14B). Nonetheless, there are specific differences as compared to the calculation under SFAS 109, *Accounting for Income Taxes* ("SFAS 109"), resulting in adjustments in the reconciliation to U.S. GAAP. These differences mainly arise from: (i) the recognition of the accumulated initial effect of the asset and liability method under MFRS did not consider the deferred tax consequences of business combinations made before January 1, 2000; and (ii) the effects of deferred tax on the reconciling items between MFRS and U.S. GAAP. The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liabilities under U.S. GAAP at December 31, 2008 and 2007 are presented below:

	2008	2007
Deferred tax assets:		
Tax loss and tax credits carryforwards	Ps 55,488	31,730
Accounts payable and accrued expenses	13,616	4,943
Others	5,309	2,664
Total gross deferred tax assets	74,413	39,337
Less valuation allowance	(27,194)	(21,093)
Total deferred tax assets under U.S. GAAP	47,219	18,244
Deferred tax liabilities:		
Property, plant and equipment	(53,945)	(63,956)
Others	(12,286)	(5,331)
Total deferred tax liability under U.S. GAAP	(66,231)	(69,287)
Net deferred tax liability under U.S. GAAP	Ps(19,012)	(51,043)

Under U.S. GAAP, tax effects of intercompany sales of assets should be reversed in consolidation until the time at which the asset is sold outside of the group. Under MFRS, the tax effects recognized by each subsidiary part of a sale of assets within the group are not reversed. As mentioned in note 25(m), during 2008, in connection with an intercompany transfer of intangible assets, a deferred tax asset recognized by the buyer under MFRS in the amount of Ps2,206 million was eliminated for US GAAP purposes. In addition, a deferred charge for an amount of Ps215, was recognized by the seller and will be amortized beginning in 2009 over 10 years, which is the period in which the acquiring entity will obtain the related tax benefit.

Of the total income tax item of approximately Ps7,748 included the reconciliation of net income to U.S. GAAP for the year ended December 31, 2008, approximately Ps2,657 is related to deferred income tax.

Current Income Taxes

In addition to the reconciling items related to deferred income taxes mentioned above, according to MFRS B-4, current income taxes are presented in the income statement. For U.S. GAAP purposes, current income taxes generated by items recognized directly in equity are recognized in equity, considering also intraperiod allocation. The reconciliation of net income to U.S. GAAP for the year ended December 31, 2008, includes an expense of approximately Ps5,091 for the reclassification of current income tax gains from net income under MFRS to equity under U.S. GAAP.

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Employees' Statutory Profit Sharing ("ESPS")

Until December 31, 2007, for purposes of U.S. GAAP, CEMEX recorded a deferred tax liability related to ESPS in Mexico using the asset and liability method at the statutory rate of 10%. As mentioned in note 2N, beginning January 1, 2008, deferred ESPS under MFRS is calculated and recognized under the asset and liability method. As a result, the accounting difference was eliminated and the cumulative effect in the stockholders' equity reconciliation to U.S. GAAP as of December 31, 2007, representing a liability of approximately Ps2,740, was cancelled during 2008 and is presented as an income adjustment in the reconciliation of net income to U.S. GAAP. The main effects of temporary differences that gave rise to significant portions of deferred ESPS at December 31, 2007 are as follows:

	2007
Deferred assets:	
Employee benefits	Ps 223
Trade accounts receivable and other	185
Gross deferred assets under U.S. GAAP	408
Deferred liabilities:	
Property, plant and equipment	3,074
Other	153
Gross deferred liabilities under U.S. GAAP	3,227
Net deferred liabilities under U.S. GAAP	Ps2,819

Until December 31, 2007, under MFRS, CEMEX recognized deferred ESPS for those temporary differences arising from the reconciliation of net income of the period and the taxable income for ESPS. The adjustment of ESPS in the reconciliation of net income to U.S. GAAP in 2007 includes the change in ESPS under U.S. GAAP for the period, net of the reversal of the ESPS recognized under MFRS, representing an expense of Ps25. In 2006, there was no deferred ESPS determined under MFRS.

(d) Accounting for Uncertainty in Income Taxes

For U.S. GAAP purposes effective January 1, 2007, CEMEX adopted FIN 48, *an interpretation of SFAS 109*, by defining the confidence level that a tax position taken or expected to be taken must meet in order to be recognized in the financial statements. FIN 48 requires that the tax effects of a position must be recognized only if it is "more-likely-than-not" to be sustained based on its technical merits as of the reporting date. In making this assessment, CEMEX has assumed that the tax authorities will examine each position and have full knowledge of all relevant information. Each position has been considered on its own, regardless of its relation to any other broader tax settlement. The more-likely-than-not threshold represents a positive assertion by management that CEMEX is entitled to the economic benefits of a tax position. If a tax position is not considered more-likely-than-not to be sustained, no benefits of the position are to be recognized. Moreover, the more-likely-than-not threshold must continue to be met in each reporting period to support continued recognition of a benefit.

If during any period after adoption of FIN 48 the threshold ceases to be met, the previously recorded benefit must be derecognized. Likewise, the benefit of a tax position that initially fails to meet the more-likely-than-not threshold should be recognized in a subsequent period if changing facts and circumstances enable the position to meet the threshold, the matter is effectively settled through negotiation or litigation with the tax authorities, or the statute of limitations has expired. A summary of the beginning and ending amount of unrecognized tax benefits recorded under U.S. GAAP as of December 31, 2008 and 2007, excluding interest and penalties, is as follow:

	2008	2007
Balance of tax positions under U.S. GAAP at beginning of year [1]	Ps11,198	4,191
Additions for tax positions of prior years	2,217	3,635
Additions for tax positions of current year [2]	2,126	3,356
Reductions for tax positions related to prior years	(3,639)	—
Reductions for tax positions related to business combinations [3]	—	(307)
Settlements	(123)	(30)
Expiration of the statue of limitations	(24)	—
Foreign currency translation effects	2,175	353
Balance of tax positions under U.S. GAAP at end of year	Ps 13,930	11,198
Balance of tax positions under MFRS at end of year	Ps 5,474	5,560

[1] In 2007, the balance at beginning of year includes approximately Ps2,949 for the cumulative effect adjustment derived from the adoption of FIN 48 related to positions analyzed and recognized, which was recorded as a decrease in retained earnings under U.S. GAAP. In addition, CEMEX recorded a decrease in retained earnings of approximately Ps584 in 2007, of which approximately Ps115 and Ps469 were related to accrued interest and penalties, respectively.

[2] In 2008 and 2007, includes approximately Ps615 and Ps1,681, respectively, recognized under MFRS.

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[3] During 2007, under MFRS, CEMEX released against income tax for the period a pre-acquisition income tax contingency, resulting in a tax benefit of approximately Ps307. Under U.S. GAAP, the resolution of a pre-acquisition income tax contingency is recognized against goodwill reducing the related recognized liability. As a result, the reconciliation of net income to U.S. GAAP for the year ended December 31, 2007, includes the reclassification of the pre-acquisition income tax contingency benefit of Ps307 under MFRS, which was recognized as a reduction of goodwill under U.S. GAAP.

CEMEX's policy is to recognize interest and penalties related to unrecognized tax benefits as part of the income tax in the consolidated income statements. Final balance for interest and penalties under MFRS and USGAAP was Ps1,187 and Ps2,967, respectively, as of December 31, 2008, and it was Ps489 under MFRS and Ps1,241 under U.S. GAAP, at December 31, 2007. Interest and penalties expense during 2008 recognized within current income tax expense was Ps695 and Ps1,341 under MFRS and USGAAP, respectively. During 2007, interest and penalties expense was Ps415 under MFRS and Ps621 under U.S. GAAP.

All unrecognized tax benefits included as of December 31, 2008 and 2007, if recognized, would impact CEMEX's effective tax rate.

Tax examinations can involve complex issues and the resolution of issues may span multiple years, particularly if subject to negotiation or litigation. Although CEMEX believes its estimates of the total unrecognized tax benefits are reasonable, uncertainties regarding the final determination of income tax audit settlements and any related litigation could affect the amount of total unrecognized tax benefits in the future periods. It is difficult to estimate the timing and range of possible change related to the uncertain tax positions, as finalizing audits with the income tax authorities may involve formal administrative and legal proceedings. Accordingly, it is not possible to reasonably estimate the expected changes to the total unrecognized tax benefits over the next 12 months, although any settlements or statute expirations may result in a significant increase or decrease in the total unrecognized tax benefits, including those positions related to tax examinations being currently conducted.

CEMEX files income tax returns in multiple jurisdictions and is subject to examination by income taxing authorities throughout the world. CEMEX's major tax jurisdictions and the years open for examination are as follows:

Country	Years open for examination
Mexico	2002 – 2008
United States	2005 – 2008
Spain	2001 – 2008
United Kingdom	2000 – 2008

(e) Employee Benefits

Severance payments

Under U.S. GAAP, post-employment benefits for former or inactive employees, including severance payments, which are not part of a restructuring event, are accrued over the employees' service lives. Beginning January 1, 2005 under MFRS, severance payments that are not part of a restructuring event are accrued over the employees' service lives according to actuarial computations, in a manner similar to U.S. GAAP. For the years ended December 31, 2008, 2007 and 2006, the reconciling item refers to the amortization of the cumulative initial effect from the accounting change under MFRS, recognized as of January 1, 2005 as part of the unrecognized net transition obligation.

Pension and other postretirement benefits

In connection with employee pension and other postretirement benefits under MFRS, until December 31, 2007, CEMEX determined the costs associated to these benefits based on the obligations' net present value, and amortized any prior service cost, transition liability and actuarial results, following the corridor method (note 2N) over the employees' estimated active service lives, as permitted by SFAS 87, *Employers' Accounting for Pensions*, under U.S. GAAP. Consequently, for the years ended December 31, 2007 and 2006 no adjustment was determined in the reconciliation of net income to U.S. GAAP. Beginning January 1, 2008, resulting from the adoption of new MFRS D-3, the prior service cost, transition liability and actuarial results accrued as of December 31, 2007, should be amortized to the income statement over a maximum period of five years, while the new actuarial results generated after the adoption of new MFRS D-3 are amortized normally over the employees' estimated active service lives following the corridor method. The reconciliation of net income to U.S. GAAP in 2008 includes the reversal of the additional amortization expense recognized under MFRS of approximately Ps104.

In connection with the change from a defined benefit plan to a defined contribution plan for a portion of CEMEX's employees in Mexico authorized on December 31, 2005, and that was effective on January 10, 2006, CEMEX determined a net loss of approximately Ps1,056 related to: 1) an event of settlement of obligations, which represented a gain of approximately Ps106; and 2) an event of curtailment, which represented a loss of approximately Ps1,162. Under MFRS, the effects from the change in plan were recognized in 2005 considering that it was a material event occurring before the issuance of the financial statements. For purposes of U.S. GAAP, according to SFAS 88, *Employers' Accounting for Settlements and Curtailments of Defined Benefit Pension Plans and for Termination Benefits*, settlement events should be recognized in the year in which the settlement occurred and not in the year in which the change is authorized. As a result, in the reconciliation of net income to U.S. GAAP, the settlement gain of approximately Ps106 (Ps80 after tax) recognized under MFRS in 2005 was canceled against the provision of pensions and other postretirement benefits under U.S. GAAP at December 31, 2005, and recognized in the reconciliation of net income to U.S. GAAP in 2006, the year in which the change of plan occurred.

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Effective December 31, 2006, for purposes of the reconciliation of stockholders' equity to U.S. GAAP, CEMEX adopted SFAS 158, which requires companies to recognize the funded status (benefits' obligation less fair value of plan assets) of defined benefit pension and other postretirement plans as a net asset or liability and to recognize any changes in that funded status in the year in which the changes occur against other comprehensive income ("OCI") to the extent those changes are not included in the net periodic cost.

The reconciliation of the funded status as of December 31, 2008 and 2007 between MFRS and U.S. GAAP is as follows:

	Assets (non-current)	Liabilities (non-current)	Deferred income tax (non-current)	Total liabilities	Cumulative OCI, net of tax
Funded status under U.S. GAAP at December 31, 2007	Ps 644	7,453	(2,345)	5,108	(45)
Reversal of approximate SFAS 158 adjustments	261	197	19	216	45
Funded status under MFRS at December 31, 2007	Ps 905	7,650	(2,326)	5,324	—
Funded status under U.S. GAAP at December 31, 2008	Ps 148	10,934	(3,183)	7,751	(2,712)
Reversal of approximate SFAS 158 adjustments	(148)	(4,146)	1,286	(2,860)	2,712
Funded status under MFRS at December 31, 2008	Ps —	6,788	(1,897)	4,891	—

The change during 2008 and 2007 in OCI under U.S. GAAP was a net loss of approximately Ps3,934 (Ps2,667 net of income tax) and a net benefit of approximately Ps1,878 (Ps1,314 net of income tax), respectively, which includes: i) a curtailment loss of Ps18 in 2008 and a curtailment gain of Ps169 in 2007; ii) a net loss of Ps3,676 in 2008 and a net gain of Ps1,800 in 2007 from actuarial results and foreign currency translation effects during the year; and iii) expenses of approximately Ps240 in 2008 and Ps91 in 2007 for the amortization of the prior service cost, the transition liability and the actuarial results. For the years ended December 31, 2008, 2007 and 2006, SFAS 158 adjustments had no effect on the summarized statement of operations and summarized income statements under U.S. GAAP presented in note 25(a).

(f) Minority Interest

Financing Transactions

In connection with CEMEX's perpetual debentures (note 15D) for notional amounts of U.S.$3,020 (Ps41,495) in 2008 and U.S.$3,065 (Ps33,470) in 2007, which are treated as equity instruments and included as part of minority interest under MFRS, for purposes of the reconciliation of stockholders' equity to U.S. GAAP, such perpetual debentures were reclassified to long-term debt under U.S. GAAP, reducing stockholders' equity under U.S. GAAP in the amount of Ps41,495 in 2008 and Ps33,470 in 2007. Interest accrued on the perpetual debentures, including in 2008 interest incurred in connection with perpetual facilities that were originated and settled during the year (notes 11A and 15D), for approximately Ps2,596 in 2008, Ps1,847 in 2007 and Ps152 in 2006 recognized within "Other capital reserves" under MFRS was treated as financing expense in the reconciliation of net income to U.S. GAAP.

U.S. GAAP Adjustments to Minority Interest

Under MFRS, the minority interest in consolidated subsidiaries is presented as a separate component within stockholders' equity. Under U.S. GAAP, minority interest is classified separately from stockholders' equity. At December 31, 2008 and 2007, the amount presented in the reconciliation of stockholders' equity to U.S. GAAP includes the share of minority interest of the adjustments to U.S. GAAP determined in the consolidated subsidiaries.

(g) Depreciation

Until December 31, 2006, CEMEX's subsidiary in Colombia recorded depreciation expense for certain fixed assets using the sinking fund method. Under U.S. GAAP, depreciation is calculated on a straight-line basis over the estimated useful lives of the assets. Depreciation expense under MFRS was reduced in the reconciliation of net income to U.S. GAAP resulting in a benefit of Ps56 in 2006. In 2007, considering that these assets were almost fully depreciated and the small significance of the adjustment, CEMEX discontinued its quantification resulting in the cancellation of the cumulative effect in the reconciliation of stockholders' equity to U.S. GAAP at December 31, 2006, which was released in the reconciliation of net income to U.S. GAAP in 2007 representing a benefit of Ps10.

(h) Associated Companies

CEMEX has adjusted its investment and equity method in associates (note 8A) for CEMEX's share of the approximate U.S. GAAP adjustments applicable to these entities.

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(i) Inflation Adjustment of Machinery and Equipment

According to Regulation S-X, when inflationary accounting is applicable under MFRS, fixed assets of foreign origin should be restated by applying the inflation rate of the country that holds the assets, regardless of the assets' origin countries, instead of using the methodology of MFRS until December 31, 2007 (notes 2A and 2I), under which fixed assets of foreign origin were restated by applying a factor that considered the inflation of the asset's origin country and the fluctuation of the currency of the country that holds the asset against the currency of the asset's origin country. Depreciation expense is based upon the revised amounts. The amount recognized in the reconciliation of net income to U.S. GAAP in 2008 refers to depreciation expense of the cumulative effect of the reconciling item as of December 31, 2007, the date on which inflationary accounting was suspended under MFRS. The amount recognized in the reconciliation of stockholders' equity to U.S. GAAP in 2008 includes Ps2,680 (US$195) ((Ps1,769 (US$129), net of income tax) related to the revaluation of fixed assets in Venezuela, which are presented net in the caption "Non-current accounts receivables and other assets".

Beginning in 2008, if inflationary accounting is applicable under MFRS, fixed assets of foreign origin would be restated using the factors derived from the general price indexes of the countries holding the assets, in a manner similar to that permitted under Regulation S-X.

(j) Financial Instruments

Indebtedness (note 11A)

Under MFRS, CEMEX has designated certain debt as hedges of certain investments in foreign subsidiaries, and records foreign exchange fluctuations on such debt within "Other equity reserves" in stockholders' equity (notes 2E and 15B). In the reconciliation of net income to U.S. GAAP, a portion of those foreign exchange results recognized in equity under MFRS have been reclassified to earnings, resulting in expense of Ps7,716 in 2008, expense of Ps339 in 2007 and expense of Ps454 in 2006, since the related debt did not meet the conditions for hedge accounting set forth in SFAS 52, *Foreign Currency Translation*, given that the currencies in which the debt is denominated are not the same currencies as the functional currencies of the net investments hedged.

Fair Value of Financial Instruments

Information related to the fair value of consolidated financial instruments is presented in note 11B. In addition, as of December 31, 2008 and 2007, the fair value of the perpetual debentures was approximately Ps17,464 (U.S.$1,271) and Ps30,838 (U.S.$2,824), respectively.

Derivative Financial Instruments (notes 2L, 11C and D)

Under both MFRS and U.S. GAAP, all derivative instruments, including those embedded in other contracts, are recognized in the balance sheet as assets or liabilities at their fair values, and changes in fair value are recognized in earnings, unless the derivatives qualify as hedges of future cash flows, in which case the effective portion of such changes in fair value is recorded temporarily in equity, and then recognized in earnings along with the related effects of the hedged items. Any ineffective portion of a hedge is reported in earnings as it occurs. However, as mentioned below, SFAS 157, *Fair Value Measurements* ("SFAS 157"), changed the definition of fair value beginning in 2008 and created a difference between MFRS and U.S. GAAP.

Energy supply contracts in which CEMEX has the obligation to acquire fixed amounts of megawatts during predefined periods (note 19C), which were negotiated for own-use in CEMEX's plants, do not include provisions for net cash settlement and do not have trading purposes. Such energy contracts contain features that may imply that the contracts represent derivative instruments or that they contain embedded derivative instruments. For both MFRS and U.S. GAAP, CEMEX considers these contracts under the "Normal Purchases and Normal Sales Exception" established in SFAS 133, *Accounting for Derivative Instruments and Hedging Activities;* consequently, such contracts are not recognized at fair value through the income statement.

All derivative instruments were accounted under MFRS consistently with the provisions of U.S. GAAP. For the years ended December 31, 2008, 2007 and 2006, CEMEX has not designated any derivative instrument as a fair value hedge under both MFRS and U.S. GAAP.

For all hedging relationships, for accounting purposes, CEMEX formally documents the hedging relationship and its risk-management objective and strategy for undertaking the hedge, the hedging instrument, the hedged item, the nature of the risk being hedged, how the hedging instrument's effectiveness in offsetting the hedged risk will be assessed, and a description of the method of measuring ineffectiveness. This process includes linking all derivatives that are designated as cash-flow or foreign-currency hedges to specific assets and liabilities on the balance sheet or to specific firm commitments or forecasted transactions. CEMEX also formally assesses, both at the hedge's origination and on an ongoing basis, whether the derivatives that are used in hedging transactions are highly effective in offsetting changes in cash flows of hedged items. When it is determined that a derivative is not highly effective as a hedge or that it has ceased to be a highly effective hedge, CEMEX discontinues hedge accounting prospectively.

Fair Value Hierarchy

On January 1, 2008, under U.S. GAAP, CEMEX adopted SFAS 157 for fair value measurements of financial assets and financial liabilities and for fair value measurements of nonfinancial items that are recognized or disclosed at fair value in the financial statements on a recurring basis.

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FASB Staff Position FAS 157-2, *Effective date of FASB Statement 157* ("FSP 157-2"), delays the effective date of SFAS 157 until fiscal years beginning after November 15, 2008 for all nonfinancial assets and nonfinancial liabilities that are recognized or disclosed at fair value in the financial statements on a recurring basis. At December 31, 2008, the categories of assets and liabilities to which CEMEX has not applied the provisions of SFAS 157 in accordance to FSP 157-2 include: nonfinancial assets and liabilities initially measured at fair value in a business combination, nonfinancial long-lived assets measured at fair value for impairment assessment, and asset retirement obligations. Additionally, the provisions of SFAS 157 were not applied to fair value measurements of CEMEX's goodwill impairment test performed under SFAS 142 (first step) and nonfinancial assets and nonfinancial liabilities measured at fair value to determine the amount of goodwill impairment (second step). On January 1, 2009, CEMEX will be required to apply the provisions of SFAS 157 to fair value measurements of nonfinancial assets and nonfinancial liabilities that are recognized or disclosed at fair value in the financial statements on a nonrecurring basis. CEMEX is currently evaluating the impact, if any, of applying these provisions on its financial position and results of operations.

Under MFRS, in addition to its trading securities which are recorded at their quoted market prices, CEMEX has recognized all its derivative financial instruments at their estimated fair value (notes 11C and D). For purposes of MFRS, fair value is the amount for which an asset could be exchanged, a liability settled, or an equity instrument granted could be exchanged between knowledgeable, willing parties in an arm's length transaction. Beginning in 2008 under U.S. GAAP, the concept of fair value was redefined by SFAS 157 as an "Exit Value", which is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Basically, the difference between the fair value under MFRS, which is equivalent to a settlement amount at the balance sheet date, and the Exit Value under U.S. GAAP, is that the later considers the counterparty's credit risk in the valuation.

The concept of Exit Value works under the premise that there is a market and market participants for the specific asset or liability. When there is no market and/or market participants willing to make a market, SFAS 157 establishes a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to measurements involving significant unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are as follows:

- Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that CEMEX has the ability to access at the measurement date.
- Level 2 inputs are inputs other than quoted prices that are observable for the asset or liability, either directly or indirectly.
- Level 3 inputs are unobservable inputs for the asset or liability.

The fair values determined by CEMEX for its derivative financial instruments are Level 2. There is no direct measure for the risk of CEMEX or its counterparties in connection with the derivative instruments. Therefore, the risk factors applied for CEMEX's assets and liabilities originated by the valuation of such derivatives were extrapolated from publicly available risk discounts for other public debt instruments of CEMEX and its counterparties. The following table presents a comparison of fair values between MFRS and U.S. GAAP and the corresponding reconciling adjustment at December 31, 2008, representing a gain of approximately US$95 (Ps1,305 (Ps960 after applicable deferred income tax)):

(U.S. dollars millions)	MFRS	U.S. GAAP	Adjustment
Active derivative instruments (note 11C)			
Derivative financial instruments related to debt	US$ (4)	5	9
Other derivative financial instruments	(36)	(14)	22
Derivative financial instruments related to equity instruments	222	240	18
	182	231	49
Inactive derivative instruments (note 11D)			
Cross currency swaps	(101)	(64)	37
Foreign exchange forward contracts	(284)	(275)	9
	(385)	(339)	46
Total	US$ (203)	(108)	95

As mentioned in note 11B, the fair value amounts under both MFRS and U.S. GAAP presented above at December 31, 2008, include approximately US$570 (Ps7,382) of deposits in margin accounts with financial institutions, of which US$372 (Ps5,111) are related to active positions and US$198 (Ps2,720) to inactive positions.

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Fair Value Option

SFAS 159, *The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115* ("SFAS 159"), provides entities with an option to measure many financial instruments and certain other items at fair value. Under SFAS 159, unrealized gains and losses on items for which the fair value option has been elected are reported in earnings at each reporting period. As of and for the year ended December 31, 2008, CEMEX did not elect to measure any financial instruments or other items at fair value.

(k) Stock Option Programs

Stock options activity during 2008 and 2007, the balance of options outstanding at December 31, 2008 and 2007 and other general information regarding CEMEX's stock option programs is presented in note 16.

As mentioned in note 2U, CEMEX accounts for its stock option programs according to IFRS 2. Effective January 1, 2006, under U.S. GAAP, CEMEX adopted SFAS 123R. This statement replaces SFAS 123, *Accounting for Stock-Based Compensation* ("SFAS 123") and supersedes APB 25. SFAS 123R requires that all stock-based compensation be recognized as an expense in the financial statements and that such cost be measured at the fair value of the award. Similar to IFRS 2 under MFRS, SFAS 123R requires liabilities incurred under stock awards to be measured at fair value at each balance sheet date, with changes in fair value recorded in the income statement. Likewise, IFRS 2 and SFAS 123R require compensation cost related to awards qualifying as equity instruments to be determined considering the grant-date fair value of the awards, and be recorded during the awards' vesting period. As of and for the years ended December 31, 2008, 2007 and 2006, the compensation expense and the liabilities accrued in connection with CEMEX's stock option programs under MFRS are the same amounts that would be determined using SFAS 123R.

(l) Impairment of Long-Lived Assets

Under U.S. GAAP, CEMEX assesses goodwill and indefinite-lived intangibles for impairment annually unless events occur that require more frequent reviews. Other long-lived assets, including amortizable intangibles, are tested for impairment if impairment triggers occur. Discounted cash flow analyses considering the required use of market considerations are applied to assess the possible impairment of goodwill and indefinite life intangible assets; whereas if impairment indicators exist, undiscounted cash flow analyses are used to assess the impairment for other long-lived assets, including definite life intangible assets. If an assessment indicates impairment, the impaired asset is written down to its fair value based on the best information available. The useful lives of amortizable intangibles are evaluated periodically, and subsequent to impairment reviews, to determine whether revision is warranted. If cash flows related to an indefinite life intangible are not expected to continue for the foreseeable future, a useful life is assigned. Considerable management judgment is necessary to estimate undiscounted and discounted future cash flows. Assumptions used for these cash flows are consistent with internal forecasts and industry practices.

As mentioned in note 2K, under MFRS, in order to test the balances of its long-lived assets for impairment, including goodwill, definite and indefinite life intangible assets and property, machinery and equipment, CEMEX determines the value in use, which consists of the discounted amount of estimated future cash flows to be generated by the related asset. The impairment loss results from the excess of the carrying amount over the value in use related to the asset. Differences in the carrying values of certain long-lived assets under U.S. GAAP as well as other factors explained below led to different impairment losses or impairment testing results between MFRS and U.S. GAAP. As of December 31, 2008 and 2007, CEMEX has no indefinite-lived intangible assets other than goodwill under both MFRS and U.S. GAAP.

Based on impairment tests made during the last quarter of 2008 under MFRS in connection with the annual review (note 10C), goodwill impairment losses were determined for the United States, Ireland and Thailand reporting units for approximately Ps18,314 (US$1,333), including an impairment loss related to CEMEX's Venezuelan investment in connection with the nationalization. Likewise, considering triggering events in the United States during the fourth quarter of 2008, CEMEX tested its intangible assets of definite life in that country and determined that the net book value of certain trademarks exceeded their related value in use and recorded impairment losses of approximately Ps1,598 (US$116). In addition, as mentioned in note 9, CEMEX recognized impairment losses during the fourth quarter in connection with the permanent closing of operating assets for an aggregate amount of approximately Ps1,045 (US$76).

Goodwill

Under U.S. GAAP, if the carrying amount of the reporting unit exceeds its related fair value, CEMEX should apply a "second step" process by means of which the fair value of such reporting unit should be allocated to the fair value of its net assets in order to determine the reporting unit's "implied" goodwill. The resulting impairment loss under U.S. GAAP is the difference between the carrying amount of the related goodwill as of the valuation date and the implied goodwill amount. This situation, in addition to differences in the determination of the risk-adjusted discount rates under MFRS as compared to U.S. GAAP, as well as differences in the reporting units' carrying amounts between MFRS and U.S. GAAP, originate, when applicable, different amounts of impairment losses.

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Based on the results of goodwill impairment testing as of December 31, 2008 under U.S. GAAP, CEMEX recorded an estimated impairment loss in connection with its reporting unit in the United States of approximately Ps62,354 (US$4,538). Any adjustment to this amount resulting from the completion of the measurement of the impairment charge will be recognized in a subsequent reporting period.

To establish the fair value of its reporting units under U.S. GAAP, CEMEX initially calculated their fair value by discounting the projected future cash flows using country specific estimated weighted average cost of capital as the discount rates, and by including and blending the allocated fair value estimates based on CEMEX historical multiples, on a basis of 60% discounted cash flows and 40% multiples. As additional reference to the fair value as determined, CEMEX compared other market value indicators, including fair value estimates based on the Guided Transactions Approach and Industry Multiples. In addition, CEMEX's market capitalization, including a reasonable control premium, was taken into consideration as a reference to reconcile the aggregate fair value determined for the reporting units. The results of the impairment test performed as of December 31, 2008 indicated that the estimated fair values of the reporting units in the United States, Ireland and Thailand were less than their allocated carrying amount at that time, failing the first step of the goodwill impairment test. The fair value of all other reporting units under U.S. GAAP exceeded in each case the corresponding carrying amount.

The second step required CEMEX to allocate the fair value of the U.S. reporting unit derived in the first step to the fair value of the reporting unit's net assets. In respect of its reporting units in Ireland and Thailand, CEMEX did not perform the second step considering that the related goodwill was fully impaired in the first step test, the materiality of these reporting units and the goodwill balances. In connection with its U.S. reporting unit, CEMEX calculated the fair values of the tangible and intangible assets and the fair value in excess of amounts allocated to such net assets represented the implied fair value of goodwill for the reporting unit. Due to the complexity of this process, CEMEX will not complete the measurement of the implied fair value of goodwill until a subsequent reporting period and, accordingly, the goodwill impairment charge in the reconciliation of net income to U.S. GAAP represents an estimate. The goodwill was written down to its implied fair value derived in the second step.

Complementarily, in connection with the goodwill associated to CEMEX's reporting units in Ireland and Thailand, as well as the goodwill associated with its Venezuelan investment, which was fully impaired under MFRS (note 10C), the reconciliation of net income to U.S. GAAP includes an additional impairment loss of approximately Ps331 associated to the cancellation of cumulative differences in the goodwill carrying amounts of these reporting units between MFRS and U.S. GAAP. At December 31, 2008, goodwill under U.S. GAAP associated with CEMEX's reporting units in Thailand and Ireland, as well as its Venezuelan assets, has been completely removed.

For purposes of the summarized statement of operations under U.S. GAAP for the year ended December 31, 2008 (note 25(a)), the noncash goodwill impairment losses, excluding the loss associated to CEMEX's Venezuelan investment, are included in the determination of operating income. The impairment loss recognized in 2008 under U.S. GAAP can be explained as follows:

Item	2008
Effect attributable to the different discount rates and required market considerations, net	Ps 51,711
Effect originated by the "second step" process	11,966
Effect resulting from different carrying amounts of goodwill between MFRS and U.S. GAAP	535
Total goodwill impairment losses under U.S. GAAP	64,212
Goodwill impairment losses under MFRS	18,314
Additional goodwill impairment losses under U.S. GAAP	Ps 45,898

Discount rates under MFRS differ from those determined under U.S. GAAP. In determining an appropriate discount rate, MFRS requires company specific data such as the rate at which CEMEX can obtain financing. In contrast, under U.S. GAAP, the discount rate should reflect a market participant's perspective on the risk of the determined cash flow streams; therefore, CEMEX applied industry specific data.

The following table presents the discount rates by country at December 31, 2008, used for the determination of CEMEX's discounted projected future cash flows under MFRS and U.S. GAAP:

Reporting units	MFRS	U.S. GAAP
United States	9.2%	10.4%
Spain	10.8%	12.0%
Mexico	12.0%	12.9%
Colombia	11.8%	12.6%
France	11.2%	12.1%
United Arab Emirates	13.0%	14.7%
United Kingdom	9.8%	11.2%
Australia	11.1%	12.1%
Range of discount rates in other countries	11.3% – 15.0%	12.0% – 18.0%

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CEMEX used the same growth rates in determining its projected future cash flows for both MFRS and U.S. GAAP. CEMEX's aggregate fair value under U.S. GAAP at December 31, 2008 was approximately US$39 billion. The use of various rates could have an adverse change in the fair value of CEMEX's goodwill and cause it to be impaired. A 1% increase in the discount rates under U.S. GAAP would cause the aggregate fair value to decrease approximately by 6.4%. At these increased discount rates, CEMEX's first step test would also indicate impairment in its reporting units located in the United Kingdom, the Philippines and Australia. Likewise, a 1% decrease in the growth rates would cause the aggregate fair value to decrease approximately by 3.8%. At these decreased growth rates, CEMEX's first step test would also indicate impairment in its reporting units located in the Philippines and Australia. In contrast, a 1% decrease in the discount rates under U.S. GAAP would cause the aggregate fair value to increase approximately by 8.0%. At these decreased discount rates, CEMEX's first step test would not indicate impairment of additional reporting units. Moreover, a 1% increase in the growth rates would cause the aggregate fair value to increase approximately by 4.8%. At these increased growth rates, CEMEX's first step test would also not indicate impairment of other reporting units.

During 2007 and 2006, the fair value of the reporting units under U.S. GAAP exceeded in each case the corresponding carrying amounts. Therefore, no impairment charges resulted from the mandatory annual impairment testing of goodwill under U.S. GAAP.

Other Intangible Assets

A significant portion of CEMEX's definite-lived intangibles assets under both MFRS and U.S. GAAP as of December 31, 2008 and 2007, are comprised by extraction permits, trademarks and customer relationships (note 10). When impairment indicators exist, for each intangible asset, CEMEX would determine its projected revenue streams over the estimated useful life. In order to obtain undiscounted and discounted cash flows attributable to each intangible asset, such revenues are adjusted for operating expenses, changes in working capital and other expenditures, as applicable, and discounted to net present value using the risk adjusted discount rates of return. Significant management judgment is necessary to determine the appropriate valuation method and estimates under the key assumptions, among which are: a) the useful life of the asset; b) the risk adjusted discount rate of return; c) royalty rates; and d) growth rates. Assumptions used for these cash flows are consistent with internal forecasts and industry practices.

The fair values of intangible assets are very sensitive to changes in the significant assumptions used in their calculation. Certain key assumptions are more subjective than others. In respect of trademarks, CEMEX considers the royalty rate, key in the determination of revenue streams, as the most subjective assumption. In respect of permits and customer relationships, the most subjective assumptions are revenue growth rates and estimated useful lives. CEMEX validates its assumptions through benchmarking with industry practices and the corroboration of third party valuation advisors.

During the fourth quarter of 2008, considering the existence of triggering events, CEMEX tested its U.S. intangible assets under both MFRS and U.S. GAAP. In connection with the trademarks that were adjusted to its value in use under MFRS, the impairment test under U.S. GAAP also presented an excess of the carrying amount over the undiscounted estimated future cash flows. Consequently, CEMEX discounted such estimated future cash flows using the discount rate determined under U.S. GAAP as described above, and arrived at an additional impairment loss of approximately Ps179.

In 2007 and 2006, there were no impairment indicators leading to impairment testing of CEMEX's definite-lived intangible assets under U.S. GAAP. In connection with the intangible assets arising from the acquisition of Rinker that were deemed to have an indefinite useful life as of December 31, 2007, CEMEX did not test these assets for impairment during 2007 considering the proximity between the fair value's valuation date and year-end. During 2008 (note 10), CEMEX assigned specific useful lives to these assets under both MFRS and U.S. GAAP.

Property, Plant and Equipment

For the years ended December 31, 2008, 2007 and 2006, there were no impairment charges under U.S. GAAP in addition to those described in note 9 related to property, plant and equipment, which were recorded under MFRS. In the case of the assets subject to impairment in the related periods, the differences in carrying amounts between MFRS and U.S. GAAP were not so significant as to require additional adjustments.

(m) Other U.S. GAAP Adjustments

Deferred charges

In prior years, under MFRS, CEMEX capitalized certain costs not qualifying for deferral under U.S. GAAP. Therefore, such costs were reversed through earnings under U.S. GAAP in the period incurred, resulting in income of Ps10 in 2008, income of Ps122 in 2007 and income of Ps120 in 2006. During 2008, 2007 and 2006, all amounts capitalized under MFRS also met the requirements for capitalization under U.S. GAAP. Accordingly, the adjustments in the reconciliation of net income to U.S. GAAP for the years ended December 31, 2008, 2007 and 2006, refer exclusively to amounts amortized under MFRS during the respective years and which were expensed in prior years under U.S. GAAP. The net effect in the reconciliation of stockholders' equity to U.S. GAAP at December 31, 2007 from this reconciling item was an expense of Ps20. During 2008, the cumulative difference was fully amortized.

CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Notes to the Consolidated Financial Statements – (Continued)
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During 2008, in connection with its perpetual debentures, CEMEX recognized issuance costs directly in equity under MFRS of approximately Ps276. As mentioned in note 25(f), CEMEX's perpetual debentures are treated as debt under U.S. GAAP. Consequently, issuance costs were reclassified from equity under MFRS to deferred financing costs under U.S. GAAP and are amortized over 3, 6 and 8 years, depending on each facility, which are the periods remaining before CEMEX has the option to send these facilities into perpetuity. At December 31, 2008, the reconciliation of stockholders' equity to U.S. GAAP includes a benefit of approximately Ps225 related to this item. For the year ended December 31, 2008, the reconciliation of net income to U.S. GAAP includes an expense of approximately Ps51 related to the amortization of these deferred financing costs.

In addition, during 2008, CEMEX recognized a current income tax expense of approximately Ps215 related to an intercompany transfer of intangible assets. Under U.S. GAAP, income tax effects associated to intercompany transfers of assets should be removed from the income statement. Consequently, CEMEX reclassified current income tax expense for the period under MFRS against a deferred charge under U.S. GAAP. The capitalized amount will be amortized beginning in 2009 over 10 years, which is the period in which the acquiring entity will obtain the related tax benefit. At December 31, 2008, the reconciliation of stockholders' equity to U.S. GAAP includes a benefit of approximately Ps214 related to this item.

Capitalized Interest

Under both MFRS (note 9) and U.S. GAAP, CEMEX capitalizes interest related to debt incurred during significant construction projects. Capitalized interest is depreciated over the useful lives of the related assets. Under U.S. GAAP, only interest expense is considered an additional cost of constructed assets. Under MFRS, until December 31, 2007, under inflationary accounting; capitalized interest was comprehensively measured in order to include: (i) interest expense, plus (ii) any foreign exchange fluctuations, and less (iii) the related monetary position result. CEMEX does not capitalize foreign exchange fluctuations related to debt incurred during significant construction projects, considering the mix of currencies in its outstanding debt and that it is not possible to link a specific debt transaction with a corresponding construction project. In 2008, the amount of interest capitalized by CEMEX incurred during significant construction projects under MFRS was the same as the amount that would be determined under U.S. GAAP (note 9). In the reconciliation of net income to U.S. GAAP for the years ended December 31, 2007 and 2006, the monetary position results related to debt incurred during significant construction projects and which were capitalized under MFRS were reversed to earnings under U.S. GAAP. Beginning in 2008, the reconciling adjustment to U.S. GAAP refers to the depreciation expense related to the cumulative adjustment as of December 31, 2007.

Monetary position result

Until December 31, 2007, monetary position result resulting from the U.S. GAAP adjustments during the periods presented was determined by (i) applying the annual inflation factor to the net monetary position of the U.S. GAAP adjustments at the beginning of the period, plus (ii) the monetary position effect of the adjustments during the period, determined in accordance with the average inflation factor for the period. Beginning in 2008, the determination of monetary position result on the U.S. GAAP adjustments was suspended.

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Notes to the Consolidated Financial Statements – (Continued)
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(n) Supplemental Cash Flow Information under U.S. GAAP

Beginning in 2008 under MFRS (note 2A), as part of its primary financial statements, CEMEX includes a statement of cash flows, which presents the sources and uses of cash flows in following significantly the same requirements as those established by SFAS 95, *"Statement of cash flows"*, under U.S. GAAP, instead of the statement of changes in financial position presented until December 31, 2007. In the year of transition, MFRS requires issuers to present only one year of the statement of cash flows and, as a transitory rule (until 2010), requires the presentation of the former statement of changes in financial position for the prior periods presented. CEMEX considers that in connection with the year 2008 and going forward, it will not be necessary to include any additional information related to cash flows under U.S. GAAP.

For 2007 and 2006, under MFRS, CEMEX presents statements of changes in financial position, which identified the sources and uses of resources based on the differences between beginning and ending balance sheets in constant pesos. Monetary position results and unrealized foreign exchange results were treated as cash items in the calculation of resources provided by operations. Under SFAS 95, statements of cash flows present only cash items and exclude non-cash items. SFAS 95 does not provide guidance with respect to inflation-adjusted financial statements. The differences between MFRS and U.S. GAAP in the amounts reported are primarily due to: (i) the elimination of inflationary effects of monetary assets and liabilities from financing and investing activities against the corresponding monetary position result in operating activities; (ii) the elimination of foreign exchange results from financing and investing activities against the corresponding unrealized foreign exchange result included in operating activities; and (iii) the recognition in operating, financing and investing activities of the U.S. GAAP adjustments.

The following table reconciles the items from the statements of changes in financial position under MFRS to the approximate cash flows under U.S. GAAP for the years ended December 31, 2007 and 2006, considering the U.S. GAAP adjustments and excluding the effects of inflation required under MFRS. The following information is presented in millions of pesos on a historical peso basis and is not presented in pesos of constant purchasing power:

	2007	2006
Net cash provided by operating activities under MFRS	**Ps 45,625**	**47,845**
Net income adjustments from MFRS to U.S. GAAP	(4,741)	(308)
Reversal of proportional consolidation	(218)	155
Depreciation and amortization	172	129
Minority interest	2,095	(13)
Deferred income tax and tax uncertainties under FIN 48	3,061	(859)
Removal of estimated monetary position result and constant peso adjustments	(9,472)	(14,054)
Removal of unrealized foreign exchange fluctuations	(3,027)	(16,194)
Other adjustments	(64)	783
Total U.S. GAAP adjustments to operating activities	(12,194)	(30,361)
Net cash provided by operating activities under U.S. GAAP	Ps 33,431	17,484
Net cash provided by (used in) financing activities under MFRS	Ps 130,349	(12,140)
Removal of unrealized foreign exchange fluctuations	(3,311)	(4,428)
Removal of estimated constant peso adjustments	8,809	10,805
Other adjustments	44	1
Total U.S. GAAP adjustments to financing activities	5,542	6,378
Net cash provided by (used in) financing activities under U.S. GAAP	Ps 135,891	(5,762)
Net cash used in investing activities under MFRS	Ps(185,798)	(24,762)
Reversal of proportional consolidation	172	(205)
Removal of estimated revaluation and constant peso adjustments	1,250	2,763
Removal of foreign currency translation and other equity effects	6,382	20,632
Other adjustments	287	421
Total U.S. GAAP adjustments to investing activities	8,091	23,611
Net cash used in investing activities under U.S. GAAP	Ps (177,707)	(1,151)
Increase (decrease) in cash and investments under MFRS	Ps (9,824)	10,943
Reversal of proportional consolidation	(2)	(50)
Removal of constant peso adjustments	1,441	(322)
Net U.S. GAAP adjustments to changes in cash and investments	1,439	(372)
Increase (decrease) in cash and investments under U.S. GAAP	Ps (8,385)	10,571

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Net cash flow from operating activities for the years ended December 31, 2007 and 2006 reflects cash payments for interest and income taxes as follows:

	2007	2006
Interest paid	Ps8,268	4,560
Income taxes paid	4,594	3,652

Non-cash activities are comprised of the following:

Long-term debt assumed through the acquisition of businesses was Ps13,943 in 2007 and Ps551 in 2006.

(o) Restatement to Constant Pesos of Prior Years

The following table presents summarized financial information under MFRS of the consolidated income statement for the year ended December 31, 2006, and balance sheet information as of December 31, 2006, in constant Mexican pesos as of December 31, 2007, using the Mexican inflation index:

Year ended December 31,	2006
Sales	Ps 204,937
Gross profit	74,126
Operating income	33,080
Majority interest net income	26,704

At December 31,	2006
Current assets	Ps 57,956
Non-current assets	278,625
Current liabilities	49,823
Non-current liabilities	120,797
Majority interest stockholders' equity	144,405
Minority interest stockholders' equity	21,556

(p) Other Disclosures under U.S. GAAP

Sale of accounts receivable

CEMEX accounts for transfers of receivables under MFRS consistently with the rules set forth by SFAS 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities* ("SFAS 140"). Under SFAS 140, transactions that meet the criteria for surrender of control are recorded as sales of receivables and their amounts are removed from the consolidated balance sheet at the time they are sold (note 5). SFAS 156, *Accounting for Servicing of Financial Assets an amendment of FASB Statement No.140* ("SFAS 156"), effective January 1, 2007, requires that all separately recognized servicing assets and servicing liabilities be initially measured at fair value, if practicable. SFAS 156 permits, but does not require, the subsequent measurement of servicing assets and servicing liabilities at fair value. An entity should apply the requirements for recognition and initial measurement of servicing assets and servicing liabilities prospectively to all transactions after the effective date of SFAS 156.

As of and for the years ended December 31, 2008 and 2007, CEMEX did not determine any reconciling item resulting from the adoption of SFAS 156 under U.S. GAAP and concluded that the effects of such adoption were immaterial. In arriving at this conclusion CEMEX considered that the receivables are short-term financial assets with an average collection period of approximately 42 days, and assumed a 1% servicing fee over its approximately U.S.$1,129 and US$1,075 million of receivables sold at December 31, 2008 and 2007, respectively. The result is a servicing asset of approximately US$11 million at the end of both periods that would be amortized every 42 days.

Asset retirement obligations and other environmental costs

SFAS 143, *Accounting for Asset Retirement Obligations* ("SFAS 143"), requires entities to record the fair value of an asset retirement obligation as a liability in the period in which a legal or a constructive obligation is incurred associated with the retirement of tangible long-lived assets that result from the acquisition, construction, development, and/or normal use of the assets. Such liability would be recorded against an asset that is depreciated over the life of the long-lived asset. Subsequent to the initial measurement, the obligation will be adjusted at the end of each period to reflect the passage of time and changes in the estimated future cash flows underlying the obligation. MFRS C-9, *Liabilities, Provisions, Contingent Assets and Liabilities and Commitments* ("MFRS C-9"), establishes generally the same requirements as SFAS 143 in connection with asset retirement obligations. For the years ended December 31, 2008, 2007 and 2006, CEMEX did not identify any differences between MFRS and U.S. GAAP in connection with this topic.

In addition, environmental expenditures related to current operations are expensed or capitalized, as appropriate. Other than those contingencies disclosed in notes 12 and 20, CEMEX is not currently facing other material contingencies, which might result in the recognition of an environmental remediation liability.

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Accounting for Costs Associated with Exit or Disposal Activities

CEMEX accrues the costs related to an exit or disposal activity, including severance payments, according to SFAS 146, *Accounting for Costs Associated with Exit or Disposal Activities* ("SFAS 146"), which basically requires, as a condition to accrue for such costs, that the entity communicate the plan to all affected employees and that the plan be terminated in the short-term; otherwise, associated costs should be expensed when incurred.

Guarantor's Accounting and Disclosure Requirements for Guarantees

Under U.S. GAAP, a guarantor is required to recognize, at origination of a guarantee, a liability for the fair value of the obligation undertaken. As of December 31, 2008 and 2007, CEMEX has not guaranteed any third parties' obligations. Nonetheless, with respect to the electricity supply long-term contract in Mexico discussed in note 19C, CEMEX may also be required to purchase the power plant upon the occurrence of specified material defaults or events, such as failure to purchase the energy and pay when due, bankruptcy or insolvency, and revocation of permits necessary to operate the facility. For the years ended December 31, 2008, 2007 and 2006, for accounting purposes under MFRS and U.S. GAAP, CEMEX has considered this agreement as a long-term energy supply agreement for own use and no liability has been created, based on the contingent characteristics of CEMEX's obligation and given that, absent a default under the agreement, CEMEX's obligations are limited to the purchase of energy from, and the supply of fuel to, the plant.

Variable Interest Entities

Under U.S. GAAP, CEMEX applies Interpretation 46R (revised December 2003), *Consolidation of Variable Interest Entities, an interpretation of ARB 51* ("FIN 46R"). The interpretation addresses the consolidation of variable interest entities ("VIEs"), which are defined as those that have one or more of the following characteristics: (i) entities in which the equity investment at risk is not sufficient to finance their operations without requiring additional subordinated financing support provided by any parties, including the equity holders; and (ii) the equity investors lack one or more of the following attributes: a) the ability to make decisions about the entity's activities through voting or similar rights, b) the obligation to absorb the expected losses of the entity, and c) the right to receive the expected residual returns of the entity. Among others, entities that are deemed to be a business according to FIN 46R, including operating joint ventures, need not be evaluated to determine if they are VIEs under FIN 46R.

Variable interests, among other factors, may be represented by operating losses, debt, contingent obligations or residual risks and may be assumed by means of loans, guarantees, management contracts, leasing, put options, derivatives, etc. A primary beneficiary is the entity that assumes the variable interests of a VIE, or the majority of them in the case of partnerships, directly or jointly with related parties, and is the entity that should consolidate the VIE. For the years ended December 31, 2008, 2007 and 2006, CEMEX has not identified any VIE that would require consolidation under U.S. GAAP other than those consolidated under MFRS.

Accounting for Planned Major Maintenance Activities

Under both MFRS and U.S. GAAP, CEMEX does not use the accrue-in-advance method of accounting for planned major maintenance activities considering that an obligation has not been incurred and therefore a liability should not be recognized.

(q) Newly Issued Accounting Pronouncements under U.S. GAAP not Effective in 2008

In December 2007, the FASB issued SFAS 141(R), *Business Combinations* ("SFAS 141R"), and SFAS 160, *Noncontrolling Interests in Consolidated Financial Statements – an amendment to ARB No. 51* ("SFAS 160"). SFAS 141(R) and SFAS 160 require most identifiable assets, liabilities, noncontrolling interests, and goodwill acquired in a business combination to be recorded at "full fair value" and require noncontrolling interests (previously referred to as minority interests) to be reported as a component of equity, which changes the accounting for transactions with noncontrolling interest holders. Both Statements are effective for periods beginning on or after December 15, 2008, and earlier adoption is prohibited. SFAS 141(R) will be applied to business combinations occurring after the effective date. SFAS 160 will be applied prospectively to all noncontrolling interests, including any that arose before the effective date. Upon adoption of SFAS 160, CEMEX would reverse the adjustment made in the reconciliation of stockholders' equity to U.S. GAAP in order to reclassify the noncontrolling interest under MFRS to the liability section under U.S. GAAP (note 25(e)). CEMEX is currently evaluating the impact of adopting SFAS 141(R) on its financial position and results of operations.

In February 2008, the FASB issued FASB Staff Position FAS 140-3, *Accounting for Transfers of Financial Assets and Repurchase Financing Transactions.* The objective of this FSP is to provide guidance on accounting for a transfer of a financial asset and repurchase financing. The FSP presumes that an initial transfer of a financial asset and a repurchase financing are considered part of the same arrangement (linked transaction). However, if certain criteria are met, the initial transfer and repurchase financing shall not be evaluated as a linked transaction and shall be evaluated separately under SFAS 140. FSP FAS 140-3 is effective for annual and interim periods beginning after November 15, 2008 and early adoption is not permitted. CEMEX is currently evaluating the provisions of this standard, but does not expect adoption to have a material impact on its financial position and results of operations.

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In March 2008, the FASB issued SFAS 161, *Disclosures about Derivative Instruments and Hedging Activities—an amendment of FASB Statement No. 133* ("SFAS 161"). SFAS 161 requires entities that utilize derivative instruments to provide qualitative disclosures about their objectives and strategies for using such instruments, as well as any details of credit-risk-related contingent features contained within derivatives. SFAS 161 also requires entities to disclose additional information about the amounts and location of derivatives located within the financial statements, how the provisions of SFAS 133 have been applied, and the impact that hedges have on an entity's financial position, financial performance, and cash flows. SFAS 161 is effective for fiscal years and interim periods beginning after November 15, 2008. CEMEX is currently evaluating the impact of SFAS 161 on the disclosures about its hedging activities and use of derivatives.

In April 2008, the FASB issued FASB Staff Position FAS 142-3, *Determination of the Useful Life of Intangible Assets* . FSP FAS 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS 142. FSP FAS 142-3 is effective for fiscal years beginning after December 15, 2008. CEMEX is currently evaluating the impact, if any, of adopting FSP FAS 142-3 on its financial position and results of operations.

In June 2008, the FASB's Emerging Issues Task Force reached a consensus on EITF Issue No. 07-5, *Determining Whether an Instrument (or Embedded Feature) Is Indexed to an Entity's Own Stock*. This EITF Issue provides guidance on the determination of whether such instruments are classified in equity or as a derivative instrument. CEMEX will adopt the provisions of EITF 07-5 in its 2009 reconciliation to U.S. GAAP effective as of January 1, 2009. CEMEX does not anticipate that the adoption of EITF 07-5 will materially impact CEMEX's financial position or results of operations under U.S. GAAP.

In November 2008, the FASB's Emerging Issues Task Force reached a consensus on EITF Issue No. 08-6, *Equity Method Investment Accounting Considerations u i t y Method of Accounting for Investments in Common Stock* , which is based on a cost accumulation model and generally excludes contingent consideration. EITF 08-6 also specifies that other-than-temporary impairment testing by the investor should be performed at the investment level and that a separate impairment assessment of the underlying assets is not required. An impairment charge by the investee should result in an adjustment of the investor's basis of the impaired asset for the investor's pro-rata share of such impairment. In addition, EITF 08-6 reached a consensus on how to account for an issuance of shares by an investee that reduces the investor's ownership share of the investee. An investor should account for such transactions as if it had sold a proportionate share of its investment with any gains or losses recorded through earnings. EITF 08-6 also addresses the accounting for a change in an investment from the equity method to the cost method after adoption of SFAS 160. EITF 08-6 affirms the existing guidance in APB 18, which requires cessation of the equity method of accounting and application of SFAS 115, *Accounting for Certain Investments in Debt and Equity Securities* , or the cost method under APB 18, as appropriate. EITF 08-6 is effective for transactions occurring on or after December 15, 2008. CEMEX does not anticipate that the adoption of EITF 08-6 will materially impact CEMEX's financial position or results of operations under U.S. GAAP.

In December 2008, the FASB issued FASB Staff Position FAS 132(R)-1, *Employers' Disclosures about Postretirement Benefit Plan Assets*. FSP FAS 132(R)-1 provides guidance on an employer's disclosures about plan assets of a defined benefit pension or other postretirement plan. FSP FAS 132(R)-1 also includes a technical amendment to SFAS 132(R), effective immediately, which requires nonpublic entities to disclose net periodic benefit cost for each annual period for which an income statement is presented. CEMEX has disclosed net periodic benefit cost in note 13. The disclosures about plan assets required by FSP FAS 132(R)-1 must be provided for fiscal years ending after December 15, 2009. CEMEX is currently evaluating the impact of this FSP on its disclosures about plan assets.

Report of Independent Registered Public Accounting Firm

The Board of Directors and Shareholders
CEMEX, S.A.B. de C.V.:

Under date of June 29, 2009, we reported on the consolidated balance sheets of CEMEX, S.A.B. de C.V. and subsidiaries as of December 31, 2008 and 2007, and the related consolidated income statements and consolidated statements of stockholders' equity for the years ended December 31, 2008, 2007 and 2006, and the consolidated statement of cash flows for the year ended December 31, 2008, and the consolidated statements of changes in financial position for the years ended December 31, 2007 and 2006, which are included in this annual report on Form 20-F. In connection with our audits of the aforementioned consolidated financial statements, we also audited the related consolidated financial statement schedule in the annual report. This financial statement schedule is the responsibility of the Company's management. Our responsibility is to express an opinion on this financial statement schedule based on our audit.

In our opinion, such financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

The audit report on the consolidated financial statements of CEMEX, S.A.B. de C.V. referred to above contains an explanatory paragraph that states that the Company's ability to fulfill its short and long-term debt obligations that mature in 2009 is dependent on successfully completing their refinancing, which raises substantial doubt about its ability to continue as a going concern; the consolidated financial statements and the financial statement schedule included in the annual report do not include any adjustments that might result from the outcome of this uncertainty.

KPMG Cárdenas Dosal, S.C.

/s/ Celin Zorrilla Rizo

Monterrey, N.L., Mexico
June 29, 2009

SCHEDULE I

CEMEX, S.A.B. DE C.V.
Parent Company-Only Balance Sheets
(Millions of Mexican pesos)

	Note	December 31, 2008	2007
ASSETS			
CURRENT ASSETS			
Other accounts receivable	**C**	Ps 3,209	1,772
Related parties accounts receivable	**I**	508	64
Total current assets		3,717	1,836
NON-CURRENT ASSETS			
Investment in subsidiaries and associates	**D**	269,097	232,483
Other investments and non-current accounts receivable		1,384	2,661
Long-term related parties accounts receivable	**I**	13,943	18,647
Land and buildings, net	**E**	1,989	1,995
Goodwill and deferred charges, net	**F**	7,204	3,304
Total non-current assets		293,617	259,090
TOTAL ASSETS		**Ps 297,334**	**260,926**
LIABILITIES AND STOCKHOLDERS' EQUITY			
CURRENT LIABILITIES			
Short-term debt including current maturities of long-term debt	**H**	Ps 18,414	20,472
Other financial obligations	**N2**	2,294	—
Other accounts payable and accrued expenses	**G**	1,722	1,032
Related parties accounts payable	**I**	4,235	20,495
Total current liabilities		26,665	41,999
NON-CURRENT LIABILITIES			
Long-term debt	**H**	58,443	53,250
Other financial obligations	**N2**	1,326	—
Long-term related parties accounts payable	**I**	18,476	155
Other liabilities		1,732	2,354
Total non-current liabilities		79,977	55,759
TOTAL LIABILITIES		**106,642**	**97,758**
STOCKHOLDERS' EQUITY	**K**		
Common stock		4,117	4,115
Additional paid-in capital		70,171	63,379
Other equity reserves		28,730	(104,574)
Retained earnings		85,396	174,140
Net income		2,278	26,108
TOTAL STOCKHOLDERS' EQUITY		**190,692**	**163,168**
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY		**Ps 297,334**	**260,926**

The accompanying notes are part of these financial statements.

SCHEDULE I (Continued)

CEMEX, S.A.B. DE C.V.
Parent Company-Only Income Statements
(Millions of Mexican pesos, except for earnings per share)

	Note	Years ended December 31, 2008	2007	2006
Equity in income of subsidiaries and associates	D	Ps 4,091	28,863	26,796
Rental income	I	271	278	287
License fees	I	1,197	1,177	957
Total revenues		**5,559**	**30,318**	**28,040**
Administrative expenses		(45)	(28)	(34)
Operating income		**5,514**	**30,290**	**28,006**
Other expenses, net		(825)	(1,310)	(862)
Operating income after other expenses, net		**4,689**	**28,980**	**27,144**
Comprehensive financing result:				
Financial expense		(4,993)	(3,425)	(5,268)
Financial income		1,670	693	1,830
Results from financial instruments		(4,792)	(1,280)	(1,324)
Foreign exchange result		593	(311)	438
Monetary position result	B	—	1,608	1,575
Comprehensive financing result		(7,522)	(2,715)	(2,749)
Income (loss) before income tax		**(2,833)**	**26,265**	**24,395**
Income tax	J	5,111	(157)	3,460
NET INCOME		**Ps 2,278**	**26,108**	**27,855**
BASIC EARNINGS PER SHARE	M	**Ps 0.10**	**1.17**	**1.29**
DILUTED EARNINGS PER SHARE	M	**Ps 0.10**	**1.17**	**1.29**

The accompanying notes are part of these financial statements.

SCHEDULE I (Continued)

CEMEX, S.A.B. DE C.V.
Parent Company-Only Statement of Cash Flows
(Millions of Mexican pesos)

	Note	Year ended December 31, 2008
OPERATING ACTIVITIES		
Net income		**Ps 2,278**
Adjustments for items which are non cash:		
Depreciation and amortization of assets		34
Equity in income of subsidiaries and associates		(4,091)
Comprehensive financing result		7,494
Income taxes	**J**	(5,111)
Changes in working capital, excluding financial expenses and income tax		(16,848)
Resources used in operating activities before comprehensive financing results and income taxes		**(16,244)**
Financial expense paid in cash		(4,844)
Income taxes paid in cash	**J**	738
Net resources used by operating activities		**(20,350)**
INVESTING ACTIVITIES		
Long-term related parties, net	**I**	25,788
Investment derivatives		1,916
Dividends obtained from associates		70
Investment in subsidiaries		(54)
Deferred charges		(14)
Long-term assets, net		(43)
Others, net		1,679
Net resources provided by investing activities		**29,342**
FINANCING ACTIVITIES		
Issuance of common stock		6,794
Financing derivatives		(6,252)
Dividends paid		(7,009)
Proceeds from debt (repayment), net		(2,647)
Long-term liabilities, net		122
Net resources used in financing activities		**(8,992)**
Decrease in cash and investments		—
Cash and investments at beginning of year		—
CASH AND INVESTMENTS AT END OF YEAR		**Ps —**
Changes in working capital:		
Other accounts receivable		Ps (239)
Short-term related parties, net	**I**	(16,705)
Other accounts payable and accrued expenses		96
		Ps (16,848)

The accompanying notes are part of these financial statements.

SCHEDULE I (Continued)

CEMEX, S.A.B. DE C.V.
Parent Company-Only Statements of Changes in Financial Position
(Millions of Mexican pesos)

	Note	Years ended December 31, 2007	2006
OPERATING ACTIVITIES			
Net income		Ps **26,108**	**27,855**
Adjustments for items which are non cash:			
Depreciation of property and buildings		6	5
Amortization of deferred charges		82	141
Deferred income taxes	**J**	957	(1,335)
Equity in income of subsidiaries and associates		(28,863)	(26,796)
Resources used in operating activities		**(1,710)**	**(130)**
Changes in working capital:			
Other accounts receivable		(994)	46
Short-term related parties, net	**I**	26,817	(6,286)
Other accounts payable and accrued expenses		(169)	712
Net change in working capital		25,654	(5,528)
Net resources provided by (used in) operating activities		**23,944**	**(5,658)**
FINANCING ACTIVITIES			
Proceeds from debt (repayment), net		38,387	(4,185)
Dividends paid		(6,636)	(6,226)
Issuance of common stock under stock dividend elections and stock option programs		6,399	5,976
Other financing activities, net		1,236	580
Net resources provided by (used in) financing activities		**39,386**	**(3,855)**
INVESTING ACTIVITIES			
Long-term related parties, net	**I**	(32,435)	14,592
Investment in subsidiaries and associates		(31,581)	(4,746)
Goodwill and deferred charges		171	57
Other long-term investments and accounts receivable		515	(390)
Net resources (used in) provided by investing activities		**(63,330)**	**9,513**
Change in cash and investments		—	—
Cash and investments at beginning of year		—	—
CASH AND INVESTMENTS AT END OF YEAR		Ps —	—

The accompanying notes are part of these financial statements.

SCHEDULE I (Continued)

CEMEX, S.A.B. DE C.V.
Notes to the Parent Company-Only Financial Statements
As of December 31, 2008, 2007 and 2006
(Millions of Mexican pesos)

A. DESCRIPTION OF BUSINESS

CEMEX, S.A.B. de C.V. is a Mexican corporation, a holding company (parent) of entities whose main activities are oriented to the construction industry, through the production, marketing, distribution and sale of cement, ready-mix concrete, aggregates and other construction materials. CEMEX is a public stock corporation with variable capital (S.A.B. de C.V.) organized under the laws of the United Mexican States, or Mexico.

CEMEX, S.A.B. de C.V. was founded in 1906 and was registered with the Mercantile Section of the Public Register of Property and Commerce in Monterrey, N.L., Mexico, on June 11, 1920 for a period of 99 years. In 2002 this period was extended to the year 2100. The shares of CEMEX, S.A.B. de C.V. are listed on the Mexican Stock Exchange as Ordinary Participation Certificates ("CPOs"). Each CPO represents two series "A" shares and one series "B" share of common stock of CEMEX, S.A.B. de C.V. In addition, CEMEX, S.A.B. de C.V. shares are listed on the New York Stock Exchange ("NYSE") as American Depositary Shares or "ADSs" under the symbol "CX." Each ADS represents ten CPOs.

The terms "CEMEX, S.A.B. de C.V." or the "Parent Company" used in these accompanying notes to the financial statements refer to CEMEX, S.A.B. de C.V. without its consolidated subsidiaries. The terms the "Company" or "CEMEX" refer to CEMEX, S.A.B. de C.V. together with its consolidated subsidiaries. The Parent Company-only financial statements under Mexican Financial Reporting Standards were authorized for their issuance by the Company's management on February 6, 2009 and will be submitted for approval in the next shareholders' meeting.

B. SIGNIFICANT ACCOUNTING POLICIES

The same accounting policies listed in note 2 to CEMEX S.A.B. de C.V. consolidated financial statements were applied, as applicable, in the preparation of the Parent Company's financial statements and subsidiaries. This schedule includes references to other notes to the consolidated financial statements, in those cases in which the information also refers to the Parent Company.

B.1 BASIS OF PRESENTATION AND DISCLOSURE

The financial statements are prepared in accordance with Mexican Financial Reporting Standards ("MFRS") issued by the Mexican Board for Research and Development of Financial Reporting Standards ("CINIF"). The MFRS have recognized the effects of inflation on the financial information until December 31, 2007. Changes in inflationary accounting effective as of January 1, 2008 are explained below.

Inflationary accounting

Beginning on January 1, 2008, according to new Mexican MFRS B-10, "Inflation Effects" ("MFRS B-10"), inflationary accounting will only be applied in a high-inflation environment, defined by the MFRS B-10 as existing when the cumulative inflation for the preceding three years equals or exceeds 26%. Until December 31, 2007, inflationary accounting was applied to all CEMEX subsidiaries regardless of the inflation level of their respective country. Beginning in 2008, only the financial statements of those subsidiaries whose functional currency corresponds to a country under high inflation will be restated to account for inflation. The designation of a country as a high or low inflation environment takes place at the end of each year and inflation is applied prospectively. As of December 31, 2007, except for Venezuela and Costa Rica, all of CEMEX's subsidiaries operate in low-inflation environment; therefore, restatement of their historical cost financial statements to account for inflation was suspended starting on January 1, 2008.

Beginning in 2008, MFRS B-10 eliminates the restatement amounts of financial statements for the period into constant values as well as the comparative financial statements for prior periods as of the date of the most recent balance sheet. Beginning in 2008, the amounts of the statement of income, statement of cash flow and statement of changes in stockholders' equity are presented in nominal values; meanwhile amount of financial statements for prior years are presented in constant pesos as of December 31, 2007, the last date in which inflationary accounting was applied.

The restatement adjustments as of the date of discontinuing the inflationary accounting should prevail as part of the carrying amount. When moving from a low-inflation to a high-inflation environment, the initial restatement factor should consider the cumulative inflation since the last time inflationary accounting was discontinued.

Upon adoption of new MFRS B-10, on January 1, 2008, the accumulated result for holding non-monetary assets as of December 31, 2007, included within "Deficit in equity restatement" (note 15B), was reclassified to "Retained earnings," representing a decrease in this caption of approximately Ps97,722.

SCHEDULE I (Continued)

CEMEX, S.A.B. DE C.V.
Notes to the Parent Company-Only Financial Statements – (Continued)
As of December 31, 2008, 2007 and 2006
(Millions of Mexican pesos)

Statement of cash flows

Beginning in 2008, the new MFRS B-2, "Statement of cash flows" ("MFRS B-2"), establishes the incorporation of a new cash flow statement, which presents cash inflows and outflows in nominal currency as part of the basic financial statements, replacing the statement of changes in financial position, which included inflation effects and foreign exchange effects not realized. Under MFRS B-2, only the cash flow statement is presented for the period 2008 and the statement of changes in financial position for the years ended December 31, 2007 and 2006, originally reported as of each year, are presented in constant pesos as of December 31, 2007.

Definition of terms

When reference is made to "pesos" or "Ps," it means Mexican pesos. Except when specific references are made to "earnings per share" and "prices per share," the amounts in these notes are stated in millions of pesos. When reference is made to "US$" or "dollars," it means dollars of the United States of America ("United States" or "U.S.A."). When reference is made to "£" or "pounds," it means British pounds sterling. When reference is made to "€" or "euros", it means millions of the currency in circulation in a significant number of European Union countries.

When it is deemed relevant, certain amounts presented in the notes to the financial statements include between parenthesis a translation into dollars, into pesos, or both, as applicable. These translations are informative data and should not be construed as representations that the amounts in pesos actually represent those dollar amounts or could be converted into dollars at the rate indicated. The translation procedures used are detailed as follows:

- When the amount between parentheses is in dollars, the amount was originated in pesos or other currencies. In 2008, such dollar translations were calculated using the closing exchange rate of Ps13.74 pesos per dollar for balance sheet amounts and using the average exchange rate of Ps11.21 pesos per dollar for the income statement amounts. For 2007 and 2006, the constant peso amounts as of December 31, 2007, were translated using the closing exchange rate as of December 31, 2007 for balance sheet and income statement accounts. For 2008, translation to pesos was calculated using the closing exchange rate of Ps13.74 pesos per dollar for balance sheet accounts and using the average exchange rate of Ps11.21 pesos per dollar for income statement accounts. In 2007 and 2006, translation to pesos was calculated using the closing exchange rate at the end of each year and were restated to constant pesos as of December 31, 2007 for balance sheet and income statement accounts.
- When the amounts between parentheses are the peso and the dollar, it means the disclosed amount was originated in other currencies. In 2008, foreign currency amounts were translated into dollars using the closing exchange rates at year-end; and translated into pesos using the closing exchange rate of Ps13.74 pesos per dollar. In 2007 and 2006, amounts in foreign currency were converted into dollars using the closing exchange rates for each year; such dollars were converted into pesos using the closing exchange rate of each year and were restated into constant pesos as of December 31, 2007.

Income statement

New MFRS B-3, "Income Statement," effective beginning January 1, 2007, establishes presentation and disclosure requirements for the captions that are included in the income statement. The Parent Company's income statement for 2006 was reclassified to comply with the presentation rules required in 2007.

B.2 RESTATEMENT OF COMPARATIVE FINANCIAL STATEMENTS

The restatement factors used for the Parent Company's information of prior periods, calculated using Mexican inflation until December 31, 2007 are the following:

	Mexican inflation restatement factor
2006 to 2007	1.0398
2005 to 2006	1.0408

C. OTHER ACCOUNTS RECEIVABLE

As of December 31, 2008 and 2007, other short-term accounts receivable of the Parent Company consist of:

	2008	2007
Non-trade accounts receivable	Ps 305	6
Current portion for valuation of derivative instruments	1,749	908
Other refundable taxes	1,155	858
	Ps 3,209	1,772

SCHEDULE I (Continued)

CEMEX, S.A.B. DE C.V.
Notes to the Parent Company-Only Financial Statements – (Continued)
As of December 31, 2008, 2007 and 2006
(Millions of Mexican pesos)

D. INVESTMENT IN SUBSIDIARIES AND ASSOCIATES

As of December 31, 2008 and 2007, investments of the Parent Company in subsidiaries and associates, which are accounted for by the equity method, are as follows:

	2008	2007
Book value at acquisition date	Ps 112,108	112,054
Revaluation by equity method	156,989	120,429
	Ps 269,097	232,483

In October 2008, the Parent Company made an equity contribution to its subsidiary CEMEX Trademarks Holding Ltd. for approximately Ps54. In December 2007, the Parent Company made a contribution to equity of CEMEX México, S.A. de C.V. for approximately Ps30,000 (nominal amount).

E. LAND AND BUILDINGS

As of December 31, 2008 and 2007, the Parent Company's land and buildings are summarized as follows:

	2008	2007
Land	Ps1,819	1,819
Buildings	470	470
Accumulated depreciation	(300)	(294)
Total land and buildings	Ps1,989	1,995

F. GOODWILL AND DEFERRED CHARGES

As of December 31, 2008 and 2007, goodwill and deferred charges consist of:

	2008	2007
Intangible assets of indefinite useful life:		
Goodwill, net	Ps1,894	1,894
Deferred Charges:		
Deferred financing costs	102	85
Deferred income taxes (note J)	5,248	1,336
Others	67	64
Accumulated amortization	(107)	(75)
Total deferred charges	Ps5,310	1,410
Total intangible assets and deferred charges	Ps 7,204	3,304

Goodwill of the Parent Company refers to a portion of the reporting unit in Mexico (note 10). For the years ended December 31, 2008, 2007 and 2006, the Parent Company did not recognize impairment losses for goodwill, considering that impairment tests presented an excess of the value in use (discounted cash flows) over the net carrying amount of goodwill in the reporting unit. During the last quarter of 2008, CEMEX made the annual test for goodwill impairment. The projection models for cash flows to value long-lived assets include long-term variables. Nevertheless, the Parent Company considers that its cash flow projections and the discount rates used for present value, reasonably present current conditions, considering that: a) the starting point of future cash flow models is the operating flow for 2008, a year which was negatively affected by the economic situation; b) the capital cost presents the current volatility of markets. An average risk would be normally used; c) the cost of debt presents the specific rate for CEMEX in recent transactions. CEMEX uses discount rates after taxes, which are applied to cash flows after taxes. In 2008 and 2007, the Company used a discount rate of 12.0% and 10.3% for 2008 and 2007, respectively, to discount cash flows of the reporting unit in Mexico.

SCHEDULE I (Continued)

CEMEX, S.A.B. DE C.V.
Notes to the Parent Company-Only Financial Statements – (Continued)
As of December 31, 2008, 2007 and 2006
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G. OTHER ACCOUNTS PAYABLE AND ACCRUED EXPENSES

Other accounts payable and accrued expenses of the Parent Company as of December 31, 2008 and 2007 are disclosed below:

	2008	2007
Other accounts payable, accrued expenses and interest payable	Ps 123	1
Tax payable	543	748
Dividends payable	4	5
Valuation of derivative instruments	1,052	278
	Ps1,722	1,032

H. SHORT-TERM AND LONG-TERM DEBT

The breakdown of the Parent Company's short-term and long-term debt as of December 31, 2008 and 2007, by interest rate and currency type is presented below:

	Carrying amount		Effective rate 1	
	2008	2007	2008	2007
Short-term				
Floating rate	Ps15,673	18,772	3.5%	5.9%
Fixed rate	2,741	1,700	9.3%	4.8%
	18,414	20,472		
Long-term				
Floating rate	46,796	46,468	4.7%	5.3%
Fixed rate	11,647	6,782	4.7%	4.2%
	58,443	53,250		
	Ps76,857	73,722		

	2008				2007			
	Short-term	Long-term	Total	Effective rate 1	Short-term	Long-term	Total	Effective rate 1
Dollars	Ps12,213	35,266	47,479	3.7%	Ps14,633	28,518	43,151	5.7%
Pesos	6,201	23,177	29,378	5.6%	5,839	24,732	30,571	5.0%
	Ps18,414	58,443	76,857		Ps20,472	53,250	73,722	

1 Represents the weighted average effective interest rate and includes the effects of interest rate swaps and derivative instruments that exchange interest rates and currencies.

As of December 31, 2008 and 2007, the Parent Company's short-term debt includes Ps8,830 and Ps16,943, respectively, representing current maturities of long-term debt.

The maturities of the Parent Company's long-term debt as of December 31, 2008 are as follows:

	Parent Company
2010	Ps 15,049
2011	32,330
2012	10,450
2013	127
2014 and thereafter	487
	Ps 58,443

As of December 31, 2007, there were short-term debt obligations amounting to US$520 (Ps5,678), respectively, classified as long-term debt considering that the Parent Company had, according to the terms of the contracts, the ability and the intention to defer payments under such obligations to the long term. As of December 31, 2008, there is no debt presented as long-term debt. The credit contracts of the Parent Company include financial covenants, among others, the accomplishment of financial ratios calculated over consolidated basis, which are detailed in note 11A.

SCHEDULE I (Continued)

CEMEX, S.A.B. DE C.V.
Notes to the Parent Company-Only Financial Statements – (Continued)
As of December 31, 2008, 2007 and 2006
(Millions of Mexican pesos)

I. BALANCES AND TRANSACTIONS WITH RELATED PARTIES

As of December 31, 2008 and 2007, the main accounts receivable and payable with related parties are as follows:

	Assets		Liabilities	
2008	Short-term	Long-term	Short-term	Long-term
CEMEX México, S.A. de C.V.	Ps —	13,943	3,766	—
CEMEX Central, S.A. de C.V.	385	—	—	—
CEMEX International Finance Co.	—	—	226	17,736
CEMEX Concreto, S.A. de C.V.	—	—	227	—
TEG Energía, S.A. de C.V.	—	—	—	740
Others	123	—	16	—
	Ps 508	13,943	4,235	18,476

	Assets		Liabilities	
2007	Short-term	Long-term	Short-term	Long-term
CEMEX México, S.A. de C.V.	Ps —	18,647	408	—
CEMEX International Finance Co	—	—	18,172	—
Profesionales en Logística de México, S.A. de C.V.	—	—	1,153	—
Servicios CEMEX México, S.A. de C.V.	—	—	353	—
CEMEX Deutschland AG	—	—	158	—
TEG Energía, S.A. de C.V.	—	—	—	155
Others	64	—	251	—
	Ps 64	18,647	20,495	155

The main operations with related parties are summarized as follows:

Parent Company	2008	2007	2006
Rental income	Ps 271	278	287
License fees	1,197	1,177	957
Financial expense	(1,316)	(433)	(2,871)
Management service expenses	(753)	(1,322)	(804)
Financial income	1,670	690	1,824
Results from financial instruments	3,063	—	(585)
Other income (expenses), net	Ps (809)	(21)	(24)

Balances and transactions of the Parent Company with related parties result primarily from: (i) the sale and/or acquisition of subsidiaries' shares within the CEMEX group; (ii) the invoicing of administrative services, rentals, trademarks and commercial name rights, royalties and other services rendered between group entities; and (iii) loans between related parties. Transactions between group entities are conducted on arm's length terms based on market prices and conditions.

The long-term account receivable with CEMEX Mexico is related to a loan bearing TIIE rate plus 129 basis points. The account payable to TEG Energía corresponds to the valuation of an interest rate swap related to energy projects negotiated between CEMEX and TEG Energía for a notional amount of US$15 with maturity in September 2022. The account payable to CEMEX International Finance Co. generates interests at market conditions and matures in 2028.

In connection with sale contracts of EUAs and the exchange of EUAs for CERs mentioned in note 2V, the Parent-company acts as counterpart of third parties and maintains identical contracts with the subsidiaries in Europe owners of the EUAs, fulfilling the obligations established in those contracts.

The definition of related parties includes entities or individuals outside the CEMEX group, which, pursuant to their relationship with CEMEX, may take advantage from being in a privileged situation. Likewise, this applies to cases in which CEMEX may take advantage of such relationships and obtain benefits in its financial position or operating results. CEMEX's transactions with related parties are executed under market conditions. The Parent Company has identified the following transactions between related parties:

Mr. Bernardo Quintana Isaac, a member of the board of directors at CEMEX, S.A.B. de C.V., is the current chairman of the board of directors of Empresas ICA, S.A.B. de C.V. ("Empresas ICA"), and was its chief executive officer until December 31, 2006. Empresas ICA is one of the most important engineering and construction companies in Mexico. In the ordinary course of business, CEMEX extends financing to Empresas ICA in connection with the purchase of CEMEX's products, on the same credit conditions that CEMEX awards to other customers.

SCHEDULE I (Continued)

CEMEX, S.A.B. DE C.V.
Notes to the Parent Company-Only Financial Statements – (Continued)
As of December 31, 2008, 2007 and 2006
(Millions of Mexican pesos)

J. CURRENT AND DEFERRED INCOME TAXES

INCOME TAXES

Until 2007, the Parent Company and its Mexican subsidiaries generated income tax ("IT") and Business Assets Tax ("BAT") on a consolidated basis; therefore, the amounts of these items included in the Parent Company's financial statements for the years ended December 31, 2007 and 2006, represent the consolidated result of these taxes.

Beginning in 1999, the determination of the consolidated IT for the Mexican companies considers a maximum of 60% of the taxable income or loss of each of the subsidiaries. When the subsidiaries determine taxable income and have tax loss carryforwards generated before 1999, such taxable income will be considered by the Parent Company according to its equity ownership. Beginning in 2002, in the determination of consolidated IT, 60% of the taxable result of the controlling entity should be considered, unless it obtains taxable income, in which case 100% should be considered, until the restated balances of the individual tax loss carryforwards before 2001 are amortized. According to the income tax law, the tax rate for 2006 was 29%. Starting in 2007 the tax rate is 28%. In 2008, 2007 and 2006, the tax consolidation was determined considering a 100% equity ownership, and the 60% tax consolidation factor was eliminated except in those cases when the subsidiaries would have generated tax loss carryforwards in the period from 1999 to 2004, or the Parent Company in the period from 2002 to 2004. In those cases, the 60% factor still prevails in the IT consolidation, until the tax loss carryforwards are extinguished in each company.

On January 1, 2008, a new law became effective in Mexico denominated Minimum Corporate Tax (*Impuesto Empresarial Tasa Única* or "IETU"), which superseded the BAT law. IETU is calculated based on cash flows, and the rate will be 16.5% for 2008, 17% in 2009 and 17.5% in 2010 and thereafter. Entities subject to IETU should also continue to determine IT and pay the greater amount between them.

In broad terms, taxable revenues for IETU purposes are those generated through the sale of goods, the rendering of professional services, as well as rental revenue. There are certain exceptions, and it is allowed to consider as deductible items for IETU calculations, the expenses incurred to conduct the activities previously described. Capital expenditures are fully deductible for IETU. Each entity should calculate IETU on a stand-alone basis and tax consolidation is not permitted. Unlike BAT, IETU is a definitive tax and, unlike income tax, the taxable income is greater since some deductions are not permitted, which in some cases may be compensated by the lower IETU rate than income tax rate.

CEMEX considers that at least for the first two years, in most of its Mexican operations, the Company will continue to incur income taxes. Income tax benefits (expenses) presented in the Parent Company's statement of income consists of:

	2008	2007	2006
Received from subsidiaries	Ps1,145	1,922	2,125
Current income tax	66	(1,122)	—
Deferred income tax	3,900	(957)	1,335
	Ps5,111	(157)	3,460

The Parent Company has accumulated consolidated tax loss carryforwards for its Mexican operations which, restated for inflation, can be amortized against taxable income in the succeeding ten years according to income tax law as established in the Mexican Income Tax Law. Tax loss carryforwards as of December 31, 2008, are as follows:

Year in which tax loss occurred	Amount of carryforwards	Year of expiration
2002	Ps 885	2012
2003	685	2013
2006	3,408	2016
2008	17,736	2018
	Ps 22,714	

Until December 2006, the BAT Law in Mexico establishes a 1.8% tax levy on assets, restated for inflation in the case of inventory and fixed assets, and deducting certain liabilities. BAT levied in excess of IT for the period may be recovered, restated for inflation, in any of the succeeding ten years, provided that the IT incurred exceeds BAT in such period. The Parent Company generates income tax on a consolidated basis; consequently, it calculated and presented consolidated BAT for the period of 2007. Starting on January 1, 2008, in compliance with modifications approved to such law, the BAT rate decreased to 1.25%, but the possibility to decrease liabilities from the taxable income basis was eliminated, therefore, this new legislation originated a sensitive increase on the tax basis. The recoverable BAT as of December 31, 2008, is Ps139 and matures in 2016.

SCHEDULE I (Continued)

CEMEX, S.A.B. DE C.V.
Notes to the Parent Company-Only Financial Statements – (Continued)
As of December 31, 2008, 2007 and 2006
(Millions of Mexican pesos)

DEFERRED INCOME TAX

The valuation method for deferred income taxes is detailed in note 2(O). Deferred IT for the period represents the difference in nominal pesos between the deferred IT initial balance and the year-end balance. Deferred IT assets and liabilities of the Parent Company have been offset. As of December 31, 2008 and 2007, the IT effects of the main temporary differences that generate deferred IT assets and liabilities of CEMEX, S.A.B. de C.V., are presented below:

	2008	2007
Deferred tax assets:		
Tax loss and tax credits carryforwards	Ps 6,360	1,745
Recoverable BAT	139	731
Advances	120	149
Derivative financial instruments	3,095	470
Gross deferred tax assets	9,714	3,095
Less – valuation allowance	(139)	(731)
Total deferred tax asset, net	9,575	2,364
Deferred tax liabilities:		
Land and buildings	(494)	(499)
Derivative financial instruments	(2,788)	(529)
Investment in associates	(1,045)	—
Total deferred tax liabilities	(4,327)	(1,028)
Net active position of deferred taxes	Ps 5,248	1,336

In 2008, deferred income tax for the period credited directly in equity was Ps12. The Parent Company's management considers that sufficient taxable income will be generated as to realize the tax benefits associated with the deferred income tax assets, and the tax loss carryforwards, prior to their expiration. In the event that present conditions change, and it is determined that future operations would not generate enough taxable income, or that tax strategies are no longer viable, the valuation allowance would be increased and reflected in the statement of income. The Parent Company does not recognize a deferred tax liability for the undistributed earnings generated by its subsidiaries and associates, recognized under the equity method, considering that such undistributed earnings are expected to be reinvested, not generating income tax in the foreseeable future. Likewise, the Parent Company does not recognize a deferred income tax liability related to its investments in subsidiaries and associates considering that the Parent Company controls the reversal of the temporary differences arising from these investments.

RECONCILIATION OF EFFECTIVE TAX RATE

The effects of inflation are recognized differently for IT and for accounting purposes. This situation, and other differences between the financial reporting and the corresponding tax basis of assets and liabilities, give rise to permanent differences between the approximate statutory tax rate and the effective tax rate presented in the Parent Company's income statements, which in 2008, 2007 and 2006, are as follows:

	2008 %	2007 %	2006 %
Effective Parent Company statutory tax rate	(28.0)	28.0	29.0
Equity in income of subsidiaries and associates	(88.4)	(30.8)	(31.8)
Valuation allowance for tax carryforwards	(5.6)	6.6	(2.5)
Benefit for tax consolidation	(45.6)	(5.0)	(8.7)
Others	(12.8)	1.8	(0.1)
Parent Company's effective tax rate	(180.4)	0.6	(14.1)

K. STOCKHOLDERS' EQUITY

The consolidated majority interest stockholders' equity is the same as the Parent Company's stockholders' equity. Therefore, stockholders' equity information detailed in note 15A to the consolidated financial statements also refers to the Parent Company, except for minority interest and the cumulative initial effect of deferred taxes.

L. EXECUTIVE STOCK OPTION PROGRAMS

Of the different stock option programs disclosed in note 16 to the consolidated financial statements, only the "fixed program" was issued by the Parent Company. Entities obligated under the other programs are part of the consolidated group.

M. EARNINGS PER SHARE

The calculations of earnings per share included in note 18 are the same for the Parent Company.

SCHEDULE I (Continued)

CEMEX, S.A.B. DE C.V.
Notes to the Parent Company-Only Financial Statements – (Continued)
As of December 31, 2008, 2007 and 2006
(Millions of Mexican pesos)

N. CONTINGENCIES AND COMMITMENTS

N.1 GUARANTEES

As of December 31, 2008 and 2007, CEMEX, S.A.B. de C.V. guaranteed loans made to certain subsidiaries for approximately US$1,407 and US$513, respectively.

As of December 31, 2008 and 2007, CEMEX S.A.B. de C.V. investment in Control Administrativo Mexicano, S.A. de C.V. and 586,147,722 CPOs of the investment in subsidiaries in the Parent Company's shares (note 15) and Cancem, S.A. de C.V. (note 8A), are deposited in an irrevocable trust transferring, management and payment title. This title maintains corporate and property rights and in the event of default of payment of CEMEX, S.A.B. de C.V. debt for an amount of US$250 (Ps3,435), which includes quarterly amortizations starting in July 2009 and maturing in October 2010, the title may be alienated and the amount applied to such debt.

N.2 CONTRACTUAL OBLIGATIONS

As of December 31, 2008 and 2007, the approximate cash flows that will be required by the Parent Company to meet its material contractual obligations are summarized as follows:

(U.S. dollars millions)	2008					2007
Obligations	Less than 1 year	1 - 3 years	3 - 5 years	More than 5 years	Total	Total
Long-term debt [1]	US$ 643	3,448	770	35	4,896	6,428
Interest payments on debt [2]	118	208	20	30	376	1,100
Interest rate derivatives [3]	9	53	5	25	92	407
Inactive derivative financial instruments [4]	167	22	67	7	263	—
Total contractual obligations	US$ 937	3,731	862	97	5,627	7,935
	Ps 12,874	51,264	11,844	1,333	77,315	86,650

1 The scheduling of debt payments, which includes current maturities, does not consider the effect of any refinancing that may occur of debt during the following years. CEMEX, S.A.B. de C.V. has been successful replacing its long-term obligations with others of similar nature in the past.
2 In the determination of future estimated interest payments on the floating rate denominated debt, the Parent Company used the floating interest rates in effect as of December 31, 2008 and 2007.
3 Estimated contractual obligations under interest rate derivatives include the approximate cash flows under the Parent Company's interest rate swaps and cross currency swap contracts, and represent the net amount between the rate the Parent Company pays and the rate received under such contracts. In the determination of future estimated cash flows, the Parent Company used the interest rates applicable under such contracts as of December 31, 2008 and 2007.
4 Refers to estimated contractual obligations of the Parent-company in the positions of inactive derivative instruments (note 11D).

O. TAX ASSESSMENTS AND LEGAL PROCEEDINGS

CEMEX, S.A.B. de C.V. and some of its subsidiaries in Mexico have been notified by the Mexican tax authority of several tax assessments related to different tax periods. Tax assessments are based primarily on investments made in entities incorporated in foreign countries with preferential tax regimes. On April 3, 2007, the Mexican tax authority issued a decree providing for a tax amnesty program, which allows for the settlement of previously issued tax assessments. CEMEX decided to take advantage of the benefits of this program, resulting in the settlement of a significant portion of the existing fiscal tax assessments of prior years. As a result of the program, as of December 31, 2008, CEMEX's total existing tax assessments amount to Ps49. CEMEX has appealed these tax assessments before the Mexican federal tax court, and the appeals are pending resolution.

Pursuant to amendments to the Mexican income tax law, which became effective on January 1, 2005, Mexican companies with investments in entities incorporated in foreign countries whose income tax liability is less than 75% of the income tax that would be payable in Mexico, are required to pay taxes in Mexico on indirect revenues, such as dividends, royalties, interest, capital gains and rental fees obtained by such foreign entities, provided that the revenues are not derived from entrepreneurial activities in such countries. CEMEX filed two motions in the Mexican federal courts challenging the constitutionality of the amendments. In September 2008, the Supreme Court of Justice ruled the amendments constitutional for tax years 2005 to 2007. Since the Supreme Court's decision does not pertain to an amount of taxes due or other tax obligations, CEMEX will self-assess any taxes due through the submission of amended tax returns. CEMEX has not yet determined the amount of tax or the periods affected. As of December 31, 2008, based on a preliminary estimate, CEMEX believes this amount will not be material, but no assurance can be given that additional analysis will not lead to a different conclusion. If the tax authorities do not agree with CEMEX's self-assessment of the taxes due for past periods, they may assess additional amounts of taxes past due, which may be material and may impact CEMEX cash flows.

SCHEDULE I (Continued)

CEMEX, S.A.B. DE C.V.
Notes to the Parent Company-Only Financial Statements – (Continued)
As of December 31, 2008, 2007 and 2006
(Millions of Mexican pesos)

P. LIQUIDITY AND MANAGEMENT PLANS

Liquidity and management plans related to the parent company are detailed in note 22 to the consolidated financial statements.

Q. SUBSEQUENT EVENTS

Parent company-only subsequent events are disclosed in note 23 to the consolidated financial statements.

Table of Contents

EXHIBIT INDEX

Exhibit No.	Description
1.1	Amended and Restated By-laws of CEMEX, S.A.B. de C.V. (a)
2.1	Form of Trust Agreement between CEMEX, S.A.B. de C.V., as founder of the trust, and Banco Nacional de México, S.A. regarding the CPOs. (b)
2.2	Amendment Agreement, dated November 21, 2002, amending the Trust Agreement between CEMEX, S.A.B. de C.V., as founder of the trust, and Banco Nacional de México, S.A. regarding the CPOs. (c)
2.3	Form of CPO Certificate. (b)
2.4	Form of Second Amended and Restated Deposit Agreement (A and B share CPOs), dated August 10, 1999, among CEMEX, S.A.B. de C.V., Citibank, N.A. and holders and beneficial owners of American Depositary Shares. (b)
2.5	Form of American Depositary Receipt (included in Exhibit 2.3) evidencing American Depositary Shares. (b)
2.6	Form of Certificate for shares of Series A Common Stock of CEMEX, S.A.B. de C.V. (b)
2.7	Form of Certificate for shares of Series B Common Stock of CEMEX, S.A.B. de C.V. (b)
4.1	Note Purchase Agreement, dated June 23, 2003, by and among CEMEX España Finance, LLC, as issuer, and several institutional purchasers named therein, in connection with the issuance by CEMEX España Finance, LLC of U.S.$103 million aggregate principal amount of Senior Notes due 2010, U.S.$96 million aggregate principal amount of Senior Notes due 2013 and U.S.$201 million aggregate principal amount of Senior Notes due 2015. (d)
4.1.1	Amendment No. 1 to Note Purchase Agreement, dated September 1, 2006. (g)
4.2	€250,000,000 and ¥19,308,000,000 Amended and Restated Term and Revolving Facilities Agreement, originally dated March 30, 2004, amended on October 10, 2006 and April 7, 2009, by and among CEMEX España, as borrower, Banco Bilbao Vizcaya Argentaria, S.A. and Société Générale, as mandated lead arrangers, and the several banks and other financial institutions named therein, as lenders. (i)
4.3	CEMEX España Finance LLC Note Purchase Agreement, dated April 15, 2004 for ¥4,980,600,000 1.79% Senior Notes, Series 2004, Tranche 1, due 2010 and ¥6,087,400,000 1.99% Senior Notes, Series 2004, Tranche 2, due 2011. (e)
4.3.1	Amendment No. 1 to CEMEX España Finance LLC Note Purchase Agreement, dated September 1, 2006. (g)
4.4	U.S.$700,000,000 Amended and Restated Credit Agreement, dated June 6, 2005, among CEMEX, S.A.B. de C.V., as borrower and CEMEX México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as guarantors, Barclays Bank PLC as issuing bank and documentation agent, ING Bank N.V., as issuing bank, Barclays Capital, as joint bookrunner, and ING Capital LLC as joint bookrunner and administrative agent. (g)
4.4.1	Amendment No. 1 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated June 21, 2006. (g)
4.4.2	Amendment and Waiver Agreement to U.S.$700,000,000 Amended and Restated Credit Agreement, dated December 1, 2006. (g)
4.4.3	Amendment No. 3 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated May 9, 2007. (g)
4.4.4	Amendment No. 4 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated December 19, 2008. (i)
4.4.5	Amendment No. 5 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated January 22, 2009. (i)
4.5	U.S.$2,300,000,000 Amended and Restated Term and Revolving Facilities Agreement, originally dated September 24, 2004, amended on November 8, 2004, February 25, 2005, July 7, 2005, June 30, 2006, December 18, 2008, for CEMEX España, S.A., as borrower, arranged by Citigroup Global Markets Limited and Goldman Sachs International with Citibank International PLC, as agent. (i)

Exhibit No.	Description
4.6	Implementation Agreement, dated September 27, 2004, by and between CEMEX U.K. Limited and RMC Group p.l.c. (e)
4.7	Scheme of Arrangement, dated October 25, 2004, pursuant to which CEMEX U.K. Limited acquired the outstanding shares of RMC Group p.l.c. (e)
4.8	Asset Purchase Agreement by and between CEMEX, Inc. and Votorantim Participações S.A., dated February 4, 2005. (e)
4.8.1	Amendment No. 1 to Asset Purchase Agreement, dated as of March 31, 2005, by and between CEMEX, Inc. and Votorantim Participações S.A. (e)
4.9	U.S.$1,200,000,000 Term Credit Agreement, dated May 31, 2005, among CEMEX, S.A.B. de C.V., as borrower, CEMEX México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as guarantor, Barclays Bank PLC, as administrative agent, Barclays Capital, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner. (f)
4.9.1	Amendment No. 1 to U.S.$1,200,000,000 Term Credit Agreement, dated June 19, 2006. (g)
4.9.2	Amendment and Waiver Agreement to U.S.$1,200,000,000 Term Credit Agreement, dated November 30, 2006. (g)
4.9.3	Amendment No. 3 to U.S.$1,200,000,000 Term Credit Agreement, dated May 9, 2007. (g)
4.9.4	Amendment No. 4 to U.S.$1,200,000,000 Term Credit Agreement, dated December 19, 2008. (i)
4.9.5	Amendment No. 5 to U.S.$1,200,000,000 Term Credit Agreement, dated January 22, 2009. (i)
4.10	U.S.$700,000,000 Amended and Restated Term and Revolving Facilities Agreement, originally dated June 27, 2005, amended on June 22, 2006, November 30, 2006, December 19, 2008 and January 23, 2009, for New Sunward Holding B.V., as borrower, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and Empresas Tolteca De México, S.A. de C.V., as guarantors, arranged by Banco Bilbao Vizcaya Argentaria, S.A., BNP Paribas and Citigroup Global Markets Limited, as mandated lead arrangers and joint bookrunners, the several financial institutions named therein, as Lenders, and Citibank, N.A., as agent. (i)
4.11	Note Purchase Agreement, dated June 13, 2005, among CEMEX España Finance LLC, as issuer, and several institutional purchasers, relating to the private placement by CEMEX España Finance, LLC of U.S.$133,000,000 aggregate principal amount of 5.18% Senior Notes due 2010, and U.S.$192,000,000 aggregate principal amount of 5.62% Senior Notes due 2015. (f)
4.11.1	Amendment No. 1 to Note Purchase Agreement, dated September 1, 2006. (g)
4.12	Amended and Restated Limited Liability Company Agreement of CEMEX Southeast LLC, dated July 1, 2005, among CEMEX Southeast LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.12.1	Amendment No. 1 to Amended and Restated Limited Liability Company Agreement of CEMEX Southeast LLC, dated as of September 1, 2005, among CEMEX Southeast LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.13	Limited Liability Company Agreement of Ready Mix USA, LLC, dated July 1, 2005, among Ready Mix USA, LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.13.1	Amendment No. 1 to Limited Liability Company Agreement of Ready Mix USA, LLC, dated September 1, 2005, among Ready Mix USA, LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.14	Asset and Capital Contribution Agreement, dated July 1, 2005, among Ready Mix USA, Inc., CEMEX Southeast Holdings, LLC, and CEMEX Southeast LLC. (f)

Exhibit No.	Description
4.15	Asset and Capital Contribution Agreement, dated July 1, 2005, among Ready Mix USA, Inc., CEMEX Southeast Holdings, LLC, and Ready Mix USA, LLC. (f)
4.16	Asset Purchase Agreement, dated September 1, 2005, between Ready Mix USA, LLC and RMC Mid-Atlantic, LLC. (f)
4.17	U.S.$1,200,000,000 Acquisition Facility Agreement, dated October 24, 2006, between CEMEX S.A.B. de C.V., as borrower, CEMEX México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as guarantors, and BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as agent. (g)
4.18	U.S.$6,000,000,000 Amended and Restated Acquisition Facilities Agreement, originally dated December 6, 2006, amended on January 27, 2007, December 19, 2008 and January 27, 2009, between CEMEX España, S.A., as borrower, Citigroup Global Markets Limited, The Royal Bank of Scotland PLC, and Banco Bilbao Vizcaya Argentaria, S.A. as mandated lead arrangers and joint bookrunners, as amended on December 21, 2006. (i)
4.19	Debenture Purchase Agreement, dated December 11, 2006, among C5 Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and J.P. Morgan Securities Inc, as representative of the several initial institutional purchasers named therein, in connection with the issuance by C5 Capital (SPV) Limited of U.S.$350,000,000 aggregate principal amount of 6.196% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.20	Debenture Purchase Agreement, dated December 11, 2006, among C10 Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and J.P. Morgan Securities Inc, as representative of the several initial institutional purchasers named therein, in connection with the issuance by C10 Capital (SPV) Limited (CEMEX, S.A.B. de C.V.) of U.S.$900,000,000 aggregate principal amount of 6.722% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.21	Debenture Purchase Agreement, dated February 6, 2007, among C8 Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and J.P. Morgan Securities Inc, as representative of the several initial institutional purchasers named therein, in connection with the issuance by C8 Capital (SPV) Limited of U.S.$750,000,000 aggregate principal amount of 6.640% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.22	Trust Deed, dated February 28, 2007, among CEMEX Finance Europe B.V., as issuer, and several institutional purchasers, relating to the issuance by CEMEX Finance Europe B.V. of €900,000,000 aggregate principal amount of 4.75% Notes due 2014. (g)
4.23	Bid Agreement, dated April 9, 2007, among CEMEX, S.A.B. de C.V., CEMEX Australia Pty Ltd and Rinker Group Limited. (g)
4.24	Debenture Purchase Agreement, dated May 3, 2007, among C10-EUR Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and the institutional purchasers named therein, in connection with the issuance by C10-EUR Capital (SPV) Limited of €730,000,000 aggregate principal amount of 6.277% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.25	U.S.$525,000,000 Senior Unsecured Maturity Loan “A” Agreement, dated June 2, 2008 among New Sunward Holding B.V. as borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as guarantors, and a group of banks as lenders, HSBC Securities (USA) Inc., Banco Santander S.A. and The Royal Bank of Scotland Plc, as joint lead arrangers and Joint Bookrunners, and ING Capital LLC, as administrative agent. U.S.$525,000,000 Senior Unsecured Maturity Loan “B” Agreement, dated June 2, 2008 among New Sunward Holding B.V. as borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as guarantors, and a group of banks as lenders, HSBC Securities (USA) Inc., Banco Santander S.A. and The Royal Bank of Scotland Plc, as joint lead arrangers and Joint Bookrunners, and ING Capital LLC, as administrative agent. (h)
4.25.1	U.S.$525,000,000 Senior Unsecured Maturity Loan “A” Agreement, dated December 31, 2008 among New Sunward Holding B.V. as borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as guarantors, and a group of banks as lenders, HSBC Securities (USA) Inc., Banco Santander S.A. and The Royal Bank of Scotland Plc, as joint lead arrangers and Joint Bookrunners, and ING Capital LLC, as administrative agent. (i)
4.25.2	Amendment No. 1 to U.S.$525,000,000 Senior Unsecured Maturity Loan “A” Agreement, dated January 22, 2009. (i)

Exhibit No.	Description
4.25.3	U.S.$525,000,000 Senior Unsecured Maturity Loan "B" Agreement, dated December 31, 2008 among New Sunward Holding B.V. as borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as guarantors, and a group of banks as lenders, HSBC Securities (USA) Inc., Banco Santander S.A. and The Royal Bank of Scotland Plc, as joint lead arrangers and Joint Bookrunners, and ING Capital LLC, as administrative agent. (i)
4.25.4	Amendment No. 1 to U.S.$525,000,000 Senior Unsecured Maturity Loan "B" Agreement, dated January 22, 2009. (i)
4.26	Forward Transaction (CEMEX Shares) Confirmation, Forward Transaction (NAFTRAC Shares) and Put Option Transaction Confirmation, with Credit Support Annex, each dated April 23, 2008, between Citibank, N.A. and a Mexican trust established by CEMEX on behalf of CEMEX's Mexican pension fund and certain of CEMEX's directors and current and former employees. (h)
4.27	Structured Transaction, dated June 2008, comprised of: (i) U.S.$500 million Credit Agreement, dated June 25, 2008, among CEMEX, S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V, as guarantor, and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch, as lender; (ii) U.S.$500 million aggregate notional amount of Put Spread Option Confirmations, dated June 3, 2008 and June 5, 2008, between Centro Distribuidor de Cemento, S.A. de C.V. and Banco Santander, S.A., Institución de Banca Múltiple, Grupo Financiero Santander; and (iii) Framework Agreement, dated June 25, 2008, by and among CEMEX, S.A.B. de C.V., CEMEX México S.A. de C.V, Banco Santander (Mexico), S.A., Institución de Banca Múltiple, Grupo Financiero Santander and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch. (h)
4.27.1	Amendment No. 1 to U.S.$500 million Credit Agreement dated December 18, 2008. (i)
4.27.2	Amendment No. 2 to U.S.$500 million Credit Agreement dated January 22, 2009. (i)
4.28	U.S.$437,500,000.00 and Ps$4,773,282,950.00 Credit Agreement, dated January 27, 2009 among CEMEX, S.A.B. de C.V., as borrower, CEMEX México, S.A. de C.V. and CEMEX Concretos, S.A. de C.V., as guarantors, and a group of banks, as lenders, BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as administrative agent, and BBVA Bancomer, S.A., Institución De Banca Múltiple, Grupo Financiero BBVA Bancomer, Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Santander Investment Securities Inc., and The Royal Bank of Scotland PLC, each a joint arranger and joint bookrunner. (i)
4.29	U.S$617,500,000 and €587,500,000 Facilities Agreement dated January 27, 2009, and among CEMEX España, S.A., as the obligors and original guarantors; Banco Santander, S.A. and The Royal Bank of Scotland PLC, as coordinators, financial institutions, as lenders; and The Royal Bank of Scotland PLC, as agent. (i)
4.30	U.S.$250,000,000 Credit Agreement dated October 14, 2008 among Banco Nacional De Comercio Exterior, Sociedad Nacional de Crédito, Institución de Banca de Desarrollo, as lender, and CEMEX, S.A.B. de C.V. as borrower. (i)
4.31	Committed U.S.$200,000,000 and uncommitted U.S.$100,000,000 Secured Bridge Facility Agreement dated March 20, 2009, among CEMEX España, S.A., as borrower, Banco Santander, S.A. and Banco Bilbao Vizcaya Argentaria, S.A, as lenders, and Banco Bilbao Vizcaya Argentaria, S.A., as facility agent. (i)
4.32	Conditional Waiver and Extension Agreement dated April 16, 2009, among CEMEX, S.A.B. de C.V. and CEMEX España, S.A., as obligors, for themselves and on behalf of each Subsidiary Obligor named therein, and a group of banks and financial institutions, as lenders. (i)
4.32.1	Amendment No. 1 to Conditional Waiver and Extension Agreement dated June 22, 2009. (i)
4.33	Ps$5,000,000,000, Revolving Credit Agreement "A" and "B" dated April 22, 2009, among Banco Nacional de Obras y Servicios Públicos, Sociedad Nacional de Crédito, Institución de Banca de Desarrollo ("BANOBRAS"), as lender, and CEMEX Concretos, S.A. de C.V., as borrower, including a First Priority Civil Mortgage granted by CEMEX México S.A. de C.V., as mortgagor, and BANOBRAS, as the mortgagee, and a First Priority Industrial Mortage, created and granted by CEMEX México S.A. de C.V. , as mortgagor, and BANOBRAS, as mortgagee. (i)
4.34	Credit Agreement dated April 22, 2009, among BANOBRAS, as lender, and CEMEX Concretos, S.A. de C.V., as borrower, including a Second Priority Civil Mortgage granted by CEMEX México S.A. de C.V., as mortgagor, and BANOBRAS, as mortgagee, and a Second Priority Industrial Mortage created and granted by CEMEX México S.A. de C.V., as mortgagor, and BANOBRAS, as mortgagee. (i)

Exhibit No.	Description
8.1	List of subsidiaries of CEMEX, S.A.B. de C.V. (i)
12.1	Certification of the Principal Executive Officer of CEMEX, S.A.B. de C.V. pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. (i)
12.2	Certification of the Principal Financial Officer of CEMEX, S.A.B. de C.V. pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. (i)
13.1	Certification of the Principal Executive and Financial Officers of CEMEX, S.A.B. de C.V. pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. (i)
14.1	Consent of KPMG Cárdenas Dosal, S.C. to the incorporation by reference into the effective registration statements of CEMEX, S.A.B. de C.V. under the Securities Act of 1933 of their report with respect to the consolidated financial statements of CEMEX, S.A.B. de C.V., which appears in this Annual Report on Form 20-F. (i)

(a) Incorporated by reference to Post-Effective Amendment No. 4 to the Registration Statement on Form F-3 of CEMEX, S.A.B. de C.V. (Registration No. 333-11382), filed with the Securities and Exchange Commission on August 27, 2003.

(b) Incorporated by reference to the Registration Statement on Form F-4 of CEMEX, S.A.B. de C.V. (Registration No. 333-10682), filed with the Securities and Exchange Commission on August 10, 1999.

(c) Incorporated by reference to the 2002 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on April 8, 2003.

(d) Incorporated by reference to the 2003 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on May 11, 2004.

(e) Incorporated by reference to the 2004 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on May 27, 2005.

(f) Incorporated by reference to the 2005 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 8, 2006.

(g) Incorporated by reference to the 2006 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 27, 2007.

(h) Incorporated by reference to the 2007 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 30, 2008.

(i) Filed herewith.

EXHIBIT 4.2

CONFORMED COPY

EUR 250,000,000

¥ 19,308,000,000

FACILITIES AGREEMENT

Originally dated 30 March 2004
as amended on 10 October 2006
and on 7 April 2009
for

CEMEX ESPAÑA, S.A.

as Borrower

CEMEX CARACAS INVESTMENTS B.V.
CEMEX CARACAS II INVESTMENTS B.V.
CEMEX EGYPTIAN INVESTMENTS B.V.
CEMEX MANILA INVESTMENTS B.V.
SANDWORTH PLAZA HOLDING B.V.

as Guarantors

arranged by

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.

SOCIÉTÉ GÉNÉRALE, S.A.

with

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.

acting as Agent

TERM AND REVOLVING FACILITIES AGREEMENT

CONTENTS

THIS AGREEMENT is dated 30 March 2004 (as amended on 10 October 2006 and on 7 April 2009) and made between:

(1) **CEMEX ESPAÑA, S.A**. (the "**Borrower**");

(2) **CEMEX CARACAS INVESTMENTS B.V., CEMEX CARACAS II INVESTMENTS B.V., CEMEX EGYPTIAN INVESTMENTS B.V., CEMEX MANILA INVESTMENTS B.V**. and **SANDWORTH PLAZA HOLDING B.V** . (the "**Original Guarantors**");

(3) **BANCO BILBAO VIZCAYA ARGENTARIA, S.A.** and **SOCIÉTÉ GÉNÉRALE, S.A.** as mandated lead arrangers (whether acting individually or together the "**Arranger**");

(4) **THE FINANCIAL INSTITUTIONS** listed in Part II of Schedule 1 (*The Original Parties*) as lenders (the "**Original Lenders**"); and

(5) **BANCO BILBAO VIZCAYA ARGENTARIA, S.A.** as agent of the other Finance Parties (the **"Agent"**).

IT IS AGREED as follows:

SECTION 1
INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Accession Letter**" means a document substantially in the form set out in Schedule 11 (*Form of Accession Letter*).

"**Additional Cost Rate**" has the meaning given to it in Schedule 4 (*Mandatory Cost Formulae*).

"**Additional Guarantor**" means a company which becomes an Additional Guarantor in accordance with Clause 25 (*Changes to the Obligors*).

"**Affiliate**" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"Amendment and Restatement Agreement" means the amendment and restatement agreement in relation to this Agreement dated on or about April 2009 and made between the Borrower, the Agent and the Arranger.

"Amendment Date" means the date on which the amendment to this Agreement becomes effective in accordance with the terms of the Amendment and Restatement Agreement.

"**Asia Fund**" means Cemex Asia Holdings Ltd. ("**CAH**") or any other vehicles used by the Borrower or any other member of the Group to invest, or finance investments

already made, in companies involved in or assets dedicated to the cement, concrete or aggregates business in Asia in both cases, such company or vehicle, as applicable, with committed third parties with minority interests other than members of the Group or CEMEX, S.A.B. de C.V. and its Subsidiaries and with the Borrower maintaining control of its management.

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Authorised Signatory**" means, in relation to any Obligor, any person who is duly authorised and in respect of whom the Agent has received a certificate signed by a director or another Authorised Signatory of such Obligor setting out the name and signature of such person and confirming such person's authority to act.

"**Availability Period**" means:

(a) in relation to Facility A and Facility C, the period from and including the date of this Agreement to and including the day falling one Month after the date of this Agreement; and

(b) in relation to Facility B, the period from and including the date of this Agreement to and including the day falling one week (or, if the Borrower has selected three Interest Periods of less than one Month, one Month) before the Termination Date.

"**Available Commitment**" means, in relation to a Facility, a Lender's Commitment under that Facility minus:

(a) the Base Currency Amount (in respect of Facility A, Facility B and Facility C1 from the Redenomination Date) or the dollar amount (in respect of Facility C2 from the Redenomination Date) of its participation in any outstanding Loans under that Facility; and

(b) in relation to any proposed Utilisation, the Base Currency Amount (in respect of Facility A, Facility B and Facility C1 from the Redenomination Date) or the dollar amount (in respect of Facility C2 from the Redenomination Date) of its participation in any Loans that are due to be made under that Facility on or before the proposed Utilisation Date,

other than, in relation to any proposed Utilisation under Facility B only, that Lender's participation in any Facility B Loans that are repaid or prepaid on or before the proposed Utilisation Date.

"**Available Facility**" means, in relation to a Facility, the aggregate for the time being of each Lender's Available Commitment in respect of that Facility.

"**Base Currency**" means euro.

"**Base Currency Amount**" means, in relation to a Facility A Loan or a Facility B Loan or a Facility C1 Loan, the amount specified in the Utilisation Request for that Loan (or, if the amount requested is not denominated in the Base Currency, that amount converted

into the Base Currency at the Spot Rate of Exchange on the date which is three Business Days before the Utilisation Date) adjusted to reflect any repayment (other than, in relation to Facility A, a repayment arising from a change of currency) or prepayment of the Loan.

"**Break Costs**" means:

(a) in the case of Facility A, Facility B and Facility C1 and Facility C2 after the Redenomination Date, the amount (if any) by which:

(i) the interest which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

(ii) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period; and

(b) in the case of Facility C1 or Facility C2 before the Redenomination Date, the amount of any costs incurred by a Lender (whether as a result of terminating any Hedging Agreements or otherwise) in respect of any prepayment under this Agreement and justified in writing to the Borrower.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in Madrid and:

(a) (in relation to any date for payment or lending or purchase of a currency other than euro) the principal financial centre of the country of that currency;

(b) (in relation to any date for determination of an interest rate in relation to a currency other than euro) the principal financial centre of that currency and London;

(c) (in relation to any date for determination of a rate of exchange in relation to a currency other than euro) a TARGET Day; or

(d) (in relation to any date for payment or lending or purchase of, or determination of an interest rate or a rate of exchange in relation to, euro) a TARGET Day.

"**Capital Lease**" means any lease that is capitalised on the balance sheet prepared in accordance with Spanish GAAP.

"**$C0_2$ Emission Rights**" means any emission rights or allowance allocated to a member of the Group to emit one tonne of carbon dioxide equivalent (as defined in the Directive) during a specified period which is valid and/or transferable under the Directive and any other type of allowance recognised by the Directive in connection to the Kyoto Protocol on climate change.

"**Commitment**" means a Facility A Commitment and/or Facility B Commitment and/or Facility C Commitment.

"**Compliance Certificate**" means a certificate substantially in the form set out in Schedule 6 (*Form of Compliance Certificate*).

"**Confidentiality Undertaking**" means a confidentiality undertaking substantially in a recommended form of the LMA as set out in Schedule 9 (*LMA Form of Confidentiality Undertaking*) or in any other form agreed between the Borrower and the Agent.

"CWEA" means the conditional waiver and extension agreement dated April 2009 between CEMEX S.A.B. de C.V., the Borrower and the Lenders (as defined therein)

"**Default**" means an Event of Default or any event or circumstance specified in Clause 23 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"**Directive**" means Directive 2003/87/EC of the European Parliament and of the Council of 13 of October 2003 establishing a scheme for greenhouse gas emission allowance trading within the European Community (as amended by Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 or as from time to time further amended).

"Dollar Conversion Rate" means the rate as defined in Clause 2.2(b)(2).

"**Domestic Lender**" means any person described in paragraph (c) of article 57 of Royal Decree 537/1997, of 14 April (*Real Decreto 537/1997 de 14 de abril*) as amended by Royal Decree 2717/1998, of 18 December (*Real Decreto 2717/1998, de 18 de diciembre*) or in the second paragraph of article 12.1 of Royal Decree 326/1999, of 26 February (*Real Decreto 326/1999, de 26 de febrero*).

"**Environmental Claim**" means any claim, proceeding or investigation by any person in respect of any Environmental Law.

"**Environmental Law**" means any applicable law or regulation in any jurisdiction in which any member of the Group conducts business which relates to the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants.

"**Environmental Permits**" means any permit, licence, consent, approval and other authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any member of the Group conducted on or from the properties owned or used by the relevant member of the Group.

"**ERISA**" means the United States Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

"**EURIBOR**" means, in relation to any Loan in euro:

(a) the applicable Screen Rate; or

(b) (if no Screen Rate is available for the Interest Period of that Loan) the rate calculated by way of interpolation of the rates for the immediately preceding and the immediately following periods for which a Screen Rate is available; or

(c) (if no Screen Rate is available for the immediately preceding and the immediately following periods) the arithmetic mean (rounded upwards to four decimal places) as supplied to the Agent at its request quoted by the Reference Banks to leading banks in the European interbank market,

as of the Specified Time on the Quotation Day for the offering of deposits in euro for a period comparable to the Interest Period of the relevant Loan.

"Euro Conversion Rate" means the rate as defined in Clause 2.2(a)(2).

"**Event of Default**" means any event or circumstance specified as such in Clause 23 (*Events of Default*).

"**Facility**" means Facility A, Facility B, Facility C1 or Facility C2.

"**Facility A**" means the multicurrency term loan facility made available under this Agreement as described in Clause 2 (*The Facilities*).

"**Facility A Commitment**" means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility A Commitment" in Part II of Schedule 1 (*The Original Parties*) and the amount of any other Facility A Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility A Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility A Loan**" means the loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

"**Facility A Repayment Date**" means the day falling 60 Months after the date of this Agreement.

"**Facility B**" means the revolving loan facility made available under this Agreement as described in Clause 2 (*The Facilities*).

"**Facility B Commitment**" means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility B Commitment" in Part II of Schedule 1 (*The Original Parties*) and the amount of any other Facility B Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility B Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility B Loan**" means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

"**Facility C1**" means the term loan facility made available under this Agreement as described in Clause 2.1(c) (*The Facilities*).

"**Facility C2**" means the term loan facility made available under this Agreement as described in Clause 2.1(d) (*The Facilities*).

"Facility C Commitment" means a Facility C1 Commitment or a Facility C2 Commitment.

"**Facility C1 Commitment**" means:

(a) in relation to an Original Lender, the amount in yen or, from the Redenomination Date, its euro equivalent pursuant to the Redenomination, set opposite its name under the heading "Facility C1 Commitment" in Part II of Schedule 1 (*The Original Parties*) and the amount of any other Facility C1 Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in yen or, from the Redenomination Date, euro of any Facility C1 Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility C2 Commitment**" means:

(a) in relation to an Original Lender, the amount in yen or, from the Redenomination Date, its dollar equivalent pursuant to the Redenomination, set opposite its name under the heading "Facility C2 Commitment" in Part II of Schedule 1 (*The Original Parties*) and the amount of any other Facility C2 Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in yen or, from the Redenomination Date, dollars of any Facility C2 Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility C Loan**" means a Facility C1 Loan or a Facility C2 Loan and, together, the **"Facility C Loans"**.

"Facility C1 Loan" means the loan made or to be made under Facility C1 or the principal amount outstanding for the time being of that loan.

"Facility C2 Loan" means the loan made or to be made under Facility C2 or the principal amount outstanding for the time being of that loan.

"**Facility C Repayment Date**" means the later of (i) the day falling 60 Months after the date of this Agreement and (ii) the day on which the Relevant Period ends, as such term is defined in the CWEA.

"**Facility Office**" means the office or offices notified by a Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

"**Fee Letter**" means any letter or letters dated on or about the date of this Agreement between the Arranger and the Borrower (or the Agent and the Borrower) setting out any of the fees referred to in Clause 12 (*Fees*).

"**Finance Document**" means this Agreement, any Accession Letter, any Fee Letter and any other document designated as such by the Agent and the Borrower.

"**Finance Party**" means the Agent, the Arranger or a Lender.

"**Financial Indebtedness**" means, without duplication, any indebtedness for or in respect of:

(a) moneys borrowed (including, but not limited to, any amount raised by acceptance under any acceptance credit facility and receivables sold or discounted on a recourse basis (it being understood that Permitted Securitisations shall be deemed not to be on a recourse basis));

(b) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(c) the amount of any liability in respect of any lease or hire purchase contract that would, in accordance with Spanish GAAP, be treated as a Capital Lease;

(d) the deferred purchase price of assets or the deferred payment of services, except trade accounts payable in the ordinary course of business;

(e) obligations of a person under repurchase agreements for the stock issued by such person or another person;

(f) obligations of a person with respect to product invoices incurred in connection with exporting financing;

(g) all Financial Indebtedness of others secured by Security on any asset of a person, regardless of whether such Financial Indebtedness is assumed by such person in an amount equal to the lower of (i) the net book value of such asset and (ii) the amount secured thereby; and

(h) guarantees of Financial Indebtedness of other persons.

"**GAAP**" means, in relation to an Obligor, the generally accepted accounting principles applying to it (i) in the country of its incorporation; or (ii) in a jurisdiction agreed to by the Agent.

"**Group**" means the Borrower and its Subsidiaries for the time being.

"**Guarantors**" means the Original Guarantors and any Additional Guarantor other than any Original Guarantor or Additional Guarantor which has ceased to be a Guarantor pursuant to Clause 25.3 (*Resignation of Guarantor*) or been removed as a Guarantor pursuant to Clause 25.4 (*Removal of Guarantor*) and has not subsequently become an Additional Guarantor pursuant to Clause 25.2 (*Additional Guarantors*) and "**Guarantor**" means any of them.

"**Hedging Agreements**" means any hedging agreements entered into by any Lender (whether internally with one of its own departments or externally with a third party) in order to hedge its interest rate exposure in relation to the calculation of the yen rate in accordance with Schedule 13 (*Defining the JPY Fix Rate*) for Facility C.

"**Holding Company**" means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

"**Information Memorandum**" means the document in the form approved by the Borrower concerning the Borrower and the Group which, at the Borrower's request and on its behalf, was prepared in relation to this transaction and distributed by the Arranger to selected financial institutions before the date of this Agreement.

"**Interest Period**" means, in relation to a Loan, each period determined in accordance with Clause 10 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 9.3 (*Default interest*).

"**International Accounting Standards**" means the accounting standards approved by the International Accounting Standards Board from time to time.

"**Investment Grade**" means a Rating assigned by S&P and Moody's of at least BBB- and at least Baa3 respectively.

"**Lender**" means:

(a) any Original Lender; and

(b) any bank, financial institution, securitisation trust or fund or other entity which has become a Party in accordance with Clause 24 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

"**LIBOR**" means, in relation to any Loan:

(a) the applicable Screen Rate; or

(b) (if no Screen Rate is available for the currency or Interest Period of that Loan) the rate calculated by way of interpolation of the rates for the immediately preceding and the immediately following periods for which a Screen Rate is available; or

(c) (if no Screen Rate is available for the immediately preceding and the immediately following periods) the arithmetic mean (rounded upwards to four decimal places) as supplied to the Agent at its request quoted by the Reference Banks to leading banks in the London interbank market,

as of the Specified Time on the Quotation Day for the offering of deposits in the currency of that Loan and for a period comparable to the Interest Period for that Loan.

"**LMA**" means the Loan Market Association.

"**Loan**" means the Facility A Loan or a Facility B Loan or a Facility C Loan.

"**Majority Lenders**" means:

(a) if there are no Loans then outstanding, a Lender or Lenders whose Commitments aggregate more than 51% of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 51% of the Total Commitments immediately prior to the reduction); or

(b) at any other time, a Lender or Lenders whose undrawn Commitments and participations in the Loans then outstanding aggregate more than 51% of all the undrawn Commitments and Loans then outstanding.

For the purposes of aggregating Lenders' Commitments and participations in Loans pursuant to this definition, any Facility A, Facility B or Facility C1 Commitments and any participations in Facility A, Facility B or Facility C1 Loans shall refer to their Base Currency Amount and any Facility C2 Commitments and any participations in Facility C2 Loans shall be converted into euro at the rate of exchange of dollars to euro implied by the Dollar Conversion Rate and the Euro Conversion Rate.

"**Mandatory Cost**" means the percentage rate per annum calculated in accordance with Schedule 4 (*Mandatory Cost Formulae*).

"**Margin**" means 0.50 per cent. per annum.

"**Material Adverse Effect**" means a material adverse effect on:

(a) the business, condition (financial or otherwise) or operations of the Group taken as a whole;

(b) the rights or remedies of any Finance Party under the Finance Documents; or

(c) the ability of any Obligor to perform its obligations under the Finance Documents.

"**Material Subsidiary**" means those companies set out in Schedule 12 (*Material Subsidiaries*) and any other Subsidiary of the Borrower:

(a) which becomes a Subsidiary of the Borrower after the date hereof or acquires substantial assets or businesses after the date hereof; and

(b) which:

(i) has total assets representing 5 per cent. or more of the total consolidated assets of the Group; and/or

(ii) has revenues representing 5 per cent. or more of the consolidated turnover of the Group,

in each case calculated on a consolidated basis and any Holding Company of any such Subsidiary (save unless such company is a Guarantor hereunder).

Compliance with the conditions set out in paragraphs (a) and (b) shall be determined by reference to the most recent Compliance Certificate supplied by the Borrower and/or the latest audited financial statements of that Subsidiary (consolidated in the case of a Subsidiary which itself has Subsidiaries) and the latest audited consolidated financial statements of the Group, but if a Subsidiary has been acquired since the date as at which the latest audited consolidated financial statements of the Group were prepared, the financial statements shall be adjusted in order to take into account the acquisition of that Subsidiary (that adjustment being certified by the Group's auditors as representing an accurate reflection of each of the respective revised total assets and turnover of the Group).

A report by the auditors of the Borrower that a Subsidiary is a Material Subsidiary shall, in the absence of manifest error, be conclusive and binding on all Parties.

"**Month**" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

(a) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;

(b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month.

The above rules will only apply to the last Month of any period.

"**Moody's**" means Moody's Investors Service Inc.

"**Obligors**" means the Borrower and the Guarantors and "**Obligor**" means any of them.

"**Optional Currency**" means a currency (other than the Base Currency) which complies with the conditions set out in Clause 4.3 (*Conditions relating to Optional Currencies*).

"**Original Financial Statements**" means:

(a) in relation to the Borrower, its audited unconsolidated and consolidated financial statements for its financial year ended 31 December 2002 and its unaudited unconsolidated and consolidated financial statements for its financial year ended 31 December 2003; and

(b) in relation to each Guarantor, its respective audited unconsolidated (and, to the extent available, its audited consolidated) financial statements for its financial year ended 31 December 2002 and unaudited unconsolidated (and, to the extent available, its unaudited consolidated) financial statements for its financial year ended 31 December 2003.

"**Outlook**" means the rating outlook of the Borrower with regard to the Borrower's economic and/or fundamental business condition, as assigned by S&P or Moody's.

"**Participating Member State**" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"**Party**" means a party to this Agreement.

"**Permitted Securitisations**" means a sale, transfer or other securitisation of receivables and related assets by the Borrower or its Subsidiaries, including a sale at a discount, **provided that** (i) such receivables have been transferred, directly or indirectly, by the originator thereof to a Special Purpose Vehicle in a manner that satisfies the requirements for an absolute conveyance, and not merely a pledge, under the laws and regulations of the jurisdiction in which such originator is organised, (ii) such Special Purpose Vehicle issues notes, certificates or other obligations which are to be repaid from collections and other proceeds of such receivables and (iii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or other securitisation is carried out on a non-recourse basis.

"**Qualifying Lender**" means:

(a) any legal person or entity (including, for the avoidance of doubt, any securitisation trust or fund) habitually resident for taxation purposes in a Qualifying State which is not acting through a territory considered as a tax haven pursuant to Spanish laws and regulations (currently set out in Royal Decree 1080/1991 of 5 July (*Real Decreto 1080/1991 de 5 de julio*)) or through a permanent establishment in Spain; or

(b) any legal person or entity (including, for the avoidance of doubt, any securitisation trust or fund) resident in a country which, as a result of any applicable double taxation treaty, would not require any payments made by the Borrower to such financial institution hereunder to be subject to any deduction or withholding in Spain; or

(c) any Domestic Lender.

"**Qualifying State**" means a member state of the European Union (other than Spain).

"**Quotation Day**" means, in relation to any period for which an interest rate is to be determined:

(a) (if the currency is euro) two TARGET Days before the first day of that period; or

(b) (for any other currency) two Business Days before the first day of that period,

unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Day for that currency will be determined by the Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days).

"**Rating**" means at any time the solicited long term credit rating or the senior implied rating of the Borrower or an issue of securities of or guaranteed by the Borrower, where the rating is based primarily on the senior unsecured credit risk of the Borrower and/or, in the case of the senior implied rating, on the characteristics of any particular issue, assigned by S&P or Moody's.

"**Redenomination**" means the redenomination of Facility C1 from yen to euro and of Facility C2 from yen to dollars, each in accordance with Clause 2.2 (*Redenomination of Facility C1 and Facility C2*).

"**Reference Banks**" means Barclays Bank PLC, Crédit Agricole Indosuez and Deutsche Bank AG or such other banks as may be appointed by the Agent in consultation with the Borrower.

"**Relevant Interbank Market**" means in relation to euro, the European interbank market, and, in relation to any other currency, the London interbank market.

"**Repeating Representations**" means each of the representations set out in Clauses 19.1 (*Status*) to 19.6 (*Governing law and enforcement*), Clause 19.9 (*No default*), paragraphs (a) and (b) of Clause 19.11 (*Financial statements*), Clause 19.13 (*No proceedings pending or threatened*), Clause 19.14 (*No winding up*) and Clause 19.16 (*Material Adverse Change*) and in relation to Clauses 19.9(b) and 19.16, subject to the terms and conditions of the CWEA.

"**Rollover Loan**" means one or more Facility B Loans:

(a) made or to be made on the same day that a maturing Facility B Loan is due to be repaid;

(b) the aggregate amount of which is equal to or less than the maturing Facility B Loan;

(c) in the same currency as the maturing Facility B Loan (unless it arose as a result of the operation of Clause 6.2 (*Unavailability of a currency*)); and

(d) made or to be made for the purpose of refinancing a maturing Facility B Loan.

"**S&P**" means Standard and Poors Corporation.

"**Screen Rate**" means:

(a) in relation to LIBOR, the British Bankers' Association Interest Settlement Rate for the relevant currency and period; and

(b) in relation to EURIBOR, the percentage rate per annum determined by the Banking Federation of the European Union for the relevant period,

displayed on the appropriate page of the Reuters screen (being currently EURIBOR01 for EURIBOR and LIBOR01 for LIBOR). If the agreed page is replaced or service ceases to be available, the Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower and the Lenders.

"**Security**" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Selection Notice**" means a notice substantially in the form set out in Part II of Schedule 3 (*Selection Notice*) given in accordance with Clause 10 (*Interest Periods*) or Clause 6.1 (*Selection of Currency*) in relation to Facility A.

"**Spanish Public Document**" means any obligation in an *Escritura Pública* or *documento intervenido*.

"**Special Purpose Vehicle**" means a securitisation trust or fund, limited liability company, partnership or other special purpose person established to implement a securitisation of receivables, provided that the business of such person is limited to acquiring, servicing and funding receivables and related assets and activities incidental thereto.

"**Specified Time**" means a time determined in accordance with Schedule 10 (*Timetables*).

"**Spot Rate of Exchange**" means the spot rate of exchange displayed on the appropriate page of the Reuters screen (being currently ECB37) of the Reuters screen for the purchase of the relevant currency with the Base Currency at or about 2:20 p.m. on a particular day.

"Stake" means a number of shares in any Group member held by another Group member the disposal of which would cause the first Group member to cease to be a Subsidiary of the second Group member.

"**Subsidiary**" means in relation to any company or corporation, a company or corporation:

(a) which is controlled, directly or indirectly, by the first mentioned company or corporation;

(b) more than half the issued share capital of which is beneficially owned, directly or indirectly by the first mentioned company or corporation; or

(c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

"**TARGET**" means Trans-European Automated Real-time Gross Settlement Express Transfer payment system.

"**TARGET Day**" means any day on which TARGET is open for the settlement of payments in euro.

"**Tax**" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Termination Date**" means:

(a) in relation to Facility A, the day falling 60 Months after the date of this Agreement;

(b) in relation to Facility B, the day falling 364 days after the date of this Agreement or, in case of an extension, from the Original Facility B Termination Date (as defined in Clause 4.5 (*Extension Request*)); and

(c) in relation to Facility C1 and Facility C2, the later of (i) the day falling 60 Months after the date of this Agreement and (ii) the day on which the Relevant Period ends, as such term is defined in the CWEA.

"**Total Commitments**" means the aggregate of the Total Facility A Commitments, the Total Facility B Commitments, the Total Facility C1 Commitments and the Total Facility C2 Commitments. For the purposes of calculating such aggregate, the Total Facility C2 Commitments shall be converted into euro at the rate of exchange of dollars to euro implied by the Dollar Conversion Rate and the Euro Conversion Rate.

"**Total Facility A Commitments**" means the aggregate of the Facility A Commitments, being EUR 150,000,000 at the date of this Agreement.

"**Total Facility B Commitments**" means the aggregate of the Facility B Commitments, being EUR 100,000,000 at the date of this Agreement.

"**Total Facility C1 Commitments**" means the aggregate of the Facility C1 Commitments, being ¥18,442,290,477 at the Amendment Date and, from the Redenomination Date, such amount in euro equivalent redenominated in accordance with Clause 2.2 (*Redenomination of Facility C1 and Facility C2*).

"**Total Facility C2 Commitments**" means the aggregate of the Facility C2 Commitments, being ¥865,709,523 at the Amendment Date and, from the Redenomination Date, such amount in dollar equivalent redenominated in accordance with Clause 2.2 (*Redenomination of Facility C1 and Facility C2*).

"**Transfer Certificate**" means a certificate substantially in the form set out in Schedule 5 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Borrower.

"**Transfer Date**" means, in relation to a transfer, the date specified as such in the relevant Transfer Certificate:

"**Unpaid Sum**" means any sum due and payable but unpaid by an Obligor under the Finance Documents.

"**Utilisation**" means a utilisation of a Facility.

"**Utilisation Date**" means the date of a Utilisation, being the date on which the relevant Loan is to be made.

"**Utilisation Request**" means a notice substantially in the form set out in Part I of Schedule 3 (*Utilisation Request*).

"**VAT**" means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

"**2001 Facility**" means the EUR 800,000,000 revolving credit facility dated 29 October 2001 entered into between Compañía Valenciana de Cementos Portland, S.A. as borrower, certain of its subsidiaries as original guarantors and certain financial institutions as arrangers, underwriters, agents and original lenders.

1.2 **Construction**

(a) Unless a contrary indication appears any reference in this Agreement to:

(i) the "**Agent**", the "**Arranger**", any "**Finance Party**", any "**Lender**", any "**Obligor**" or any "**Party**" shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

(ii) "**assets**" includes present and future properties, revenues and rights of every description;

(iii) a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended or novated;

(iv) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

(v) a "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing;

(vi) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

(vii) the "**winding-up**", "**dissolution**", "**administration**" or "**reorganisation**" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings (such as, in Spain, *suspensión de pagos*, *quiebra, concurso* or any other *situación concursal*) under the laws and regulations of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, bankruptcy, dissolution, administration, arrangement, adjustment, protection or relief of debtors;

(viii) a provision of law is a reference to that provision as amended or re-enacted; and

(ix) a time of day is a reference to Madrid time.

(b) Section, Clause and Schedule headings are for ease of reference only.

(c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

(d) A Default (other than an Event of Default) is "**continuing**" if it has not been remedied or waived and an Event of Default is "**continuing**" if it has not been waived.

1.3 **Currency Symbols and Definitions**

"**$**" and "**dollars**" denote lawful currency of the United States of America, "**EUR**" and "**euro**" means the single currency unit of the Participating Member States and "**¥**" and "**yen**" denote lawful currency of Japan.

1.4 **Third party rights**

A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

SECTION 2
THE FACILITIES

2. THE FACILITIES

2.1 The Facilities

Subject to the terms of this Agreement, the Lenders make available to the Borrower:

(a) a multicurrency term loan facility in an aggregate amount equal to the Total Facility A Commitments;

(b) a multicurrency revolving loan facility in an aggregate amount equal to the Total Facility B Commitments;

(c) a euro (*subject to Clause 2.2 (Redenomination of Facility C1 and Facility C2*) term loan facility in an aggregate amount equal to the Total Facility C1 Commitments; and

(d) a dollar (*subject to Clause 2.2 (Redenomination of Facility C1 and Facility C2*) term loan facility in an aggregate amount equal to the Total Facility C2 Commitments

2.2 Redenomination of Facility C1 and Facility C2

(a) Redenomination of Facility C1:

(1) Facility C1 shall be denominated:

(i) for the period from the Amendment Date until the Redenomination Date, in yen; and

(ii) thereafter, following its redenomination in accordance with this Clause 2.2, in euro,

and the Borrower, the Agent and the Lenders participating in Facility C1 (the " **Facility C1 Lenders**") agree that the following procedure set out in this Clause 2.2(a) shall be implemented to redenominate Facility C1 in full into euro on the Redenomination Date.

(2) By no later than 11 a.m. (London time) on R-2, the Borrower shall notify the Agent of a spot rate of exchange for the conversion of yen into euro (the "**Euro Conversion Rate**") and shall also deliver a Selection Notice in respect of each Facility C1 Loan indicating the Interest Period which shall apply to each Facility C1 Loan commencing on the Redenomination Date in accordance with Clause 10.1 (*Selection of Interest Periods*).

(3) The Agent shall determine, using the Euro Conversion Rate, the amount in euro of each Facility C1 Loan and shall, no later than 3 p.m. (London time) on R-2, notify each Facility C1 Lender of (i) the Euro Conversion Rate, (ii) the Interest Period selected, (iii) such amount in euro of each Facility C1 Loan, and (iv) the amount of each Facility C1 Lender's participation in each Facility C1 Loan (such amount, with respect to a Facility C1 Lender, a "**Euro Participation**").

(4) By no later than 11.00 a.m. on R-2, the Agent shall notify each Facility C1 Lender of the Screen Rate.

(5) On the Redenomination Date:

(i) each Facility C1 Lender shall make its Euro Participation available through its Facility Office to the Agent;

(ii) the Agent shall, upon receipt of a Facility C1 Lender's Euro Participation, immediately transfer the same to the Borrower (or as the Borrower may direct);

(iii) the Borrower shall pay to the Agent or shall procure that there is paid to the Agent an amount in yen equivalent, at the Euro Conversion Rate, to the aggregate amount of the Euro Participations it has received from the Agent (the **"Yen C1 Repayment Amount"**); and

(iv) the Agent shall pay to each Facility C1 Lender who has made available a Euro Participation to the Agent as set out in sub-paragraph (i) above, its share of the Yen C1 Repayment Amount pro rata to its Facility C1 Commitment immediately prior to its conversion into euro,

with each of the above steps (i) to (iv) deemed to occur simultaneously for value on the same day.

(6) In the event that, notwithstanding its obligations under this Agreement, any Facility C1 Lender does not make available its Euro Participation in accordance with paragraph (a)(5)(i) above, no amount in respect of such Facility C1 Lender's Euro Participation will be transferred by the Agent to the Borrower in accordance with paragraph (a)(5)(ii above, such Facility C1 Lender shall not be entitled to receive any amount from the Agent when the Yen C1 Repayment Amount is paid by the Agent to Facility C1 Lenders in accordance with sub-paragraph (a)(5)(iv) above, and such Facility C1 Lender's participation in Facility C1 Loans shall remain outstanding and denominated in yen (and for the avoidance of doubt, the provisions of Clause 28 (*Sharing among the Finance Parties*) shall be deemed not to apply).

(b) Redenomination of Facility C2:

(1) Facility C2 shall be denominated:

(i) for the period from the Amendment Date until the Redenomination Date, in yen; and

(ii) thereafter, following its redenomination in accordance with this Clause 2.2, in dollars,

and the Borrower, the Agent and the Lenders participating in Facility C2 (the " **Facility C2 Lenders**") agree that the following procedure set out in this Clause 2.2(b) shall be implemented to redenominate Facility C2 in full into dollars on the Redenomination Date.

(2) By no later than 11 a.m. (London time) on R-2, the Borrower shall notify the Agent of a spot rate of exchange for the conversion of yen into dollars (the "**Dollar Conversion Rate**") and shall also deliver a Selection Notice in respect of each Facility C2 Loan indicating the Interest Period which shall apply to each Facility C2 Loan commencing on the Redenomination Date in accordance with Clause 10.1 (*Selection of Interest Periods*).

(3) The Agent shall determine, using the Dollar Conversion Rate, the amount in dollars of each Facility C2 Loan and shall, no later than 3 p.m. (London time) on R-2, notify each Facility C2 Lender of (i) the Dollar Conversion Rate, (ii) the Interest Period selected, (iii) such amount in dollars of each Facility C2 Loan, and (iv) the amount of each Facility C2 Lender's participation in each Facility C2 Loan (such amount, with respect to a Facility C2 Lender, a "**Dollar Participation**").

(4) By no later than 11.00 a.m. on R-2, the Agent shall notify each Facility C2 Lender of the Screen Rate.

(5) On the Redenomination Date:

(i) each Facility C2 Lender shall make its Dollar Participation available through its Facility Office to the Agent;

(ii) the Agent shall, upon receipt of a Facility C2 Lender's Dollar Participation, immediately transfer the same to the Borrower (or as the Borrower may direct);

(iii) the Borrower shall pay to the Agent or shall procure that there is paid to the Agent an amount in yen equivalent, at the Dollar Conversion Rate, to the aggregate amount of the Dollar Participations it has received from the Agent (the **"Yen C2 Repayment Amount"**); and

(iv) the Agent shall pay to each Facility C2 Lender who has made available a Dollar Participation to the Agent as set out in sub-paragraph (i) above, its share of the Yen C2 Repayment Amount pro rata to its Facility C2 Commitment immediately prior to its conversion into dollars,

with each of the above steps (i) to (iv) deemed to occur simultaneously for value on the same day.

(6) In the event that, notwithstanding its obligations under this Agreement, any Facility C2 Lender does not make available its Dollar Participation in accordance with paragraph (b)(5)(i) above, no amount in respect of such Facility C2 Lender's Dollar Participation will be transferred by the Agent to the Borrower in accordance with paragraph (b)(5)(ii) above, such Facility C2 Lender shall not be entitled to receive any amount from the Agent when the Yen C2 Repayment Amount is paid by the Agent to Facility C2 Lenders in accordance with sub-paragraph (b)(5)(iv) above, and such Facility C2 Lender's participation in Facility C2 Loans shall remain outstanding and denominated in yen (and for the avoidance of doubt, the provisions of Clause 28 (*Sharing among the Finance Parties*) shall be deemed not to apply).

(c) In this Clause 2.2, "**Redenomination Date**" or "**R**" means 16 April 2009 (or such other date as the Borrower and the Agent may agree), and "**R-2**" means the date falling 2 Business Days prior to the Redenomination Date.

(d) As soon as practicable after the Redenomination Date, the Agent shall circulate to the Borrower and each Lender an updated form of Part II of Schedule 1, showing the Total Facility C1 Commitments in euro and the Total Facility C2 Commitments in dollars on the Redenomination Date which shall be deemed to replace Part II of Schedule 1 to this Agreement.

2.3 **Finance Parties' rights and obligations**

(a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

(b) Except as otherwise stated in the Finance Documents, the rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt.

(c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

3. PURPOSE

3.1 Purpose

The Borrower shall apply all amounts borrowed by it under each Facility first towards repayment of the 2001 Facility and thereafter towards its general corporate purposes and short term liquidity requirements.

3.2 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. CONDITIONS OF UTILISATION

4.1 Initial conditions precedent

The Borrower may not deliver a Utilisation Request unless the Agent has received all of the documents and other evidence listed in Part I of Schedule 2 (*Conditions Precedent to initial Utilisation*). The Agent shall notify the Borrower and the Lenders promptly upon receiving such documents.

4.2 **Further conditions precedent**

(a) The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) if on the date of the Utilisation Request and on the proposed Utilisation Date:

(i) in the case of a Rollover Loan, no Default is continuing or would result from the proposed Loan and, in the case of any other Loan, no Default i**s** continuing or would result from the proposed Loan; and

(ii) the Repeating Representations to be made by each Obligor are true in all material respects.

(b) The Lenders will only be obliged to comply with Clause 6.3 (*Change of currency*) if, on the first day of an Interest Period, no Default is continuing or would result from the change of currency and the Repeating Representations to be made by each Obligor are true in all material respects.

(c) If only one but not both of the Facility A Loan and the Facility C Loans have, as of the last day of the Availability Period, been made, the Borrower shall on such day prepay the entire amount of the Facility A Loan or, as the case may be, the Facility C Loans.

4.3 **Conditions relating to Optional Currencies**

A currency will constitute an Optional Currency in relation to a Loan if:

(a) it is readily available in the amount required and freely convertible into the Base Currency in the Relevant Interbank Market on the Quotation Day and the Utilisation Date for that Loan; and

(b) it is dollars.

4.4 **Maximum number of Loans**

(a) The Borrower may not deliver a Utilisation Request if as a result of the proposed Utilisation:

(i) two or more Facility A Loans would be outstanding; or

(ii) six or more Facility B Loans would be outstanding; or

(iii) two or more Facility C1 Loans would be outstanding; or

(iv) two or more Facility C2 Loans would be outstanding.

(b) Any Loan made by a single Lender under Clause 6.2 (*Unavailability of a currency*) shall not be taken into account in this Clause 4.4.

4.5 **Extension Request**

The Borrower shall be entitled to request an extension of Facility B, for an additional period of 364 days, by giving notice to the Agent (the " **Extension Request**") not more than 60 nor less than 30 days before the Termination Date (in this Clause 4.5 the " **Original Facility B Termination Date**"). Such notice shall be made in writing and shall be unconditional and binding on the Borrower except as set out in Clause 4.9 (*Revocation of Extension*).

4.6 **Notification of Extension Request**

The Agent shall forward a copy of the Extension Request to the Lenders as soon as practicable after receipt of it.

4.7 **Lenders' Response to Extension Request**

If a Lender, in its individual and sole discretion, agrees to the extension requested by the Borrower, it shall give notice to the Agent (a " **Notice of Extension**") (revocable only in the case mentioned in Clause 4.9 (*Revocation of Extension*)) no later than 20 days prior to the Original Facility B Termination Date. If a Lender does not give such Notice of Extension by such date, then that Lender shall be deemed to have refused that extension.

4.8 **Lender's Discretion**

Nothing shall oblige a Lender to agree to an Extension Request.

4.9 **Revocation of Extension**

If Lenders whose Facility B Commitments amount in aggregate to 50 per cent. or less of the Total Facility B Commitments give Notices of Extension, then the Extension Request will be deemed to have been refused and the Agent shall notify the Borrower and Lenders accordingly.

4.10 **Extension Date**

(a) The Original Facility B Termination Date shall be extended if and when Lenders whose Facility B Commitments amount in aggregate to more than 50 per cent. of the Total Facility B Commitments have agreed to it by giving a Notice of Extension and, **provided that** the Borrower has not withdrawn its Extension Request on or before the date falling 10 days prior to the Original Facility B Termination Date, the Original Facility B Termination Date shall then be extended to the day which is 364 days from (and including) the Original Facility B Termination Date.

(b) If less than all the Lenders give a Notice of Extension, then the Facility B Commitments shall be reduced to zero and the share of any outstanding Loans of the Lenders which have not agreed to the extension shall be fully repaid on the Original Facility B Termination Date (and those Lenders shall cease from that date to be Lenders in respect of Facility B under this Agreement) and the amount of Facility B shall be reduced accordingly.

4.11 **Notification of Extension**

The Agent shall promptly inform the Borrower and the Lenders which will continue to remain party to this Agreement of the size of Facility B if reduced.

SECTION 3
UTILISATION

5. UTILISATION

5.1 Delivery of a Utilisation Request

The Borrower may utilise a Facility by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time.

5.2 Completion of a Utilisation Request

(a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

(i) it identifies the Facility to be utilised;

(ii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;

(iii) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*); and

(iv) the proposed Interest Period complies with Clause 10 (*Interest Periods*).

(b) Only one Loan may be requested in each Utilisation Request.

5.3 Currency and amount

(a) The currency specified in a Utilisation Request must be:

(i) in relation to the Facility A Loan or a Facility B Loan, the Base Currency or the Optional Currency;

(ii) in relation to the Facility C1 Loan, euro; and

(iii) in relation to the Facility C2 Loan, dollars.

(b) In relation to the Facility A Loan or a Facility B Loan, the amount of the proposed Loan must be:

(i) if the currency selected is the Base Currency:

(A) in the case of the Facility A Loan, EUR 150,000,000; and

(B) in the case of a Facility B Loan, a minimum of EUR 20,000,000 and, if more, an integral multiple of EUR 5,000,000 or, if less, the Available Facility; or

(ii) if the currency selected is dollars:

(A) in the case of the Facility A Loan, the equivalent in dollars at the Spot Rate of Exchange at the Specified Time of EUR 150,000,000; and

(B) in the case of a Facility B Loan, a minimum of the equivalent in dollars at the Spot Rate of Exchange at the Specified Time of EUR 20,000,000 and, if more, an integral multiple of $5,000,000 or, if less, the Available Facility; and

(iii) in any event such that its Base Currency Amount is less than or equal to the Available Facility.

For the purposes of paragraph (b) (ii) above and in respect of Facility B only, the Availability Facility shall be calculated by deducting from the Total Facility B Commitments the aggregate amount of all outstanding Facility B Loans converted (to the extent that any such Loans are denominated in Optional Currencies) into the Base Currency at the Spot Rate of Exchange at the Specified Time relating to the delivery of the Utilisation Request.

(c) In relation to the Facility C Loan, the amount of the proposed Loan must be ¥19,308,000,000.

5.4 **Lenders' participation**

(a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.

(b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.

(c) The Agent shall determine the Base Currency Amount of each Loan which is to be made in an Optional Currency and shall notify each Lender of the amount, currency and the Base Currency Amount of each Loan and the amount of its participation in that Loan, in each case by the Specified Time.

6. OPTIONAL CURRENCIES

6.1 **Selection of currency**

(a) The Borrower shall select the currency of a Loan:

(i) (in the case of an initial Utilisation) in a Utilisation Request; and

(ii) (afterwards in relation to a Facility A Loan made to it) in a Selection Notice.

(b) If the Borrower fails to issue a Selection Notice in relation to the Facility A Loan, the Loan will remain denominated for its next Interest Period in the same currency in which it is then outstanding.

(c) If the Borrower issues a Selection Notice requesting a change of currency and the first day of the requested Interest Period is not a Business Day for the new currency, the Agent shall promptly notify the Borrower and the Lenders and the Loan will remain in the existing currency (with Interest Periods running from

one Business Day until the next Business Day) until the next day which is a Business Day for both currencies, on which day the requested Interest Period will begin.

6.2 **Unavailability of a currency**

If before the Specified Time on any Quotation Day:

(a) a Lender notifies the Agent that the Optional Currency requested is not readily available to it in the amount required, and provides in writing an objectively justified reason therefor; or

(b) a Lender notifies the Agent that compliance with its obligation to participate in a Loan in the proposed Optional Currency would contravene a law or regulation applicable to it,

the Agent will give notice to the Borrower to that effect by the Specified Time on that day. In this event, any Lender that gives notice pursuant to this Clause 6.2 will be required to participate in the Loan in the Base Currency (in an amount equal to that Lender's proportion of the Base Currency Amount, or in respect of a Rollover Loan, an amount equal to that Lender's proportion of the Base Currency Amount of the Rollover Loan that is due to be made) and its participation will be treated as a separate Loan denominated in the Base Currency during that Interest Period.

6.3 **Change of currency**

If a Facility A Loan is to be denominated in different currencies during two successive Interest Periods:

(a) if the currency for the second Interest Period is an Optional Currency, the amount of the Loan in that Optional Currency will be calculated by the Agent as the amount of that Optional Currency equal to the Base Currency Amount of the Loan at the Spot Rate of Exchange at the Specified Time;

(b) if the currency for the second Interest Period is the Base Currency, the amount of the Loan will be equal to the Base Currency Amount;

(c) the Borrower shall repay the Loan on the last day of the first Interest Period in the currency in which it was denominated for that Interest Period; and

(d) (subject to Clause 4.2 (*Further conditions precedent*)) the Lenders shall re-advance the Loan in the new currency in accordance with Clause 6.5 (*Agent's calculations*) on the last day of the first Interest Period.

6.4 **Same Optional Currency during successive Interest Periods – Facility A**

(a) If a Facility A Loan is to be denominated in the same Optional Currency during two successive Interest Periods, the Agent shall calculate the amount of the Facility A Loan in the Optional Currency for the second of those Interest Periods (by calculating the amount of Optional Currency equal to the Base Currency Amount of that Facility A Loan at the Spot Rate of Exchange at the Specified Time) and (subject to paragraph (b) below):

(i) if the amount calculated is less than the existing amount of that Facility A Loan in the Optional Currency during the first Interest Period, promptly notify the Borrower and the Borrower shall pay, on the last day of the first Interest Period, an amount equal to the difference; or

(ii) if the amount calculated is more than the existing amount of that Facility A Loan in the Optional Currency during the first Interest Period, promptly notify each Lender and, if no Default is continuing, each Lender shall, on the last day of the first Interest Period, pay its participation in an amount equal to the difference.

(b) If the calculation made by the Agent pursuant to paragraph (a) above shows that the amount of the Facility A Loan in the Optional Currency for the second of those Interest Periods converted into the Base Currency at the Spot Rate of Exchange at the Specified Time has increased or decreased by less than 5 per cent. compared to its Base Currency Amount (for the avoidance of doubt, taking into account any payments made pursuant to paragraph (a) above) or that the Spot Rate of Exchange at the Specified Time has increased or decreased by less than 5 per cent. compared to the Spot Rate of Exchange used either for the initial calculation of the amount of the Facility A Loan in the Optional Currency or, if a payment has been made in accordance with paragraph (a) above, the Spot Rate of Exchange so used at such time, no notification shall be made by the Agent and no payment shall be required under paragraph (a) above.

6.5 **Agent's calculations**

(a) All calculations made by the Agent pursuant to this Clause 6 will take into account any repayment or prepayment of Facility A Loans to be made on the last day of the first Interest Period.

(b) Each Lender's participation in a Loan will, subject to paragraph (a) above, be determined in accordance with paragraph (b) of Clause 5.4 (*Lenders' participation*).

SECTION 4
REPAYMENT, PREPAYMENT AND CANCELLATION

7. REPAYMENT

7.1 Repayment of Facility A Loan

The Borrower shall repay the Facility A Loan in full on the Termination Date.

7.2 Repayment of Facility B Loans

The Borrower shall repay each Facility B Loan on the last day of its Interest Period. If such Loan is to be refinanced with a Rollover Loan, the amount of each Loan required to be repaid shall be set off against the amount of the applicable Rollover Loan.

7.3 Repayment of Facility C1 Loan

The Borrower shall repay the Facility C1 Loan in full on the Termination Date.

7.4 Repayment of Facility C2 Loan

The Borrower shall repay the Facility C2 Loan in full on the Termination Date.

8. PREPAYMENT AND CANCELLATION

8.1 Illegality

If, at any time, it is or will become unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Loan:

(a) that Lender shall promptly notify the Agent upon becoming aware of that event and in any event at a time which permits the Borrower to repay that Lender's participation on the date such repayment is required to be made;

(b) upon the Agent notifying the Borrower, the Commitment of that Lender will be immediately cancelled; and

(c) the Borrower shall repay that Lender's participation in the Loans made to the Borrower on the last day of the Interest Period for each Loan occurring after the Agent has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Agent.

8.2 Voluntary cancellation

The Borrower may, if it gives the Agent not less than five Business Days' prior written notice, cancel the whole or any part (in the case of Facility A and Facility B, being a minimum amount of EUR 15,000,000 and, if more, an integral multiple of EUR 5,000,000) of an Available Facility. Any cancellation under this Clause 8.2 shall reduce the Commitments of the Lenders rateably under that Facility. Cancellations shall be made proportionally between Facility A and the aggregate of Facility C1 and Facility C2.

8.3 Voluntary prepayment of Facility A Loan

(a) The Borrower may, if it gives the Agent not less than five Business Days' prior written notice, prepay the whole or any part of the Facility A Loan (but, if in part, being an amount that reduces the Base Currency Amount of the Facility A Loan by a minimum amount of EUR 15,000,000 and, if more, an integral multiple of EUR 5,000,000).

(b) The Facility A Loan may only be prepaid after the last day of the Availability Period (or, if earlier, the day on which the applicable Available Facility is zero).

8.4 **Voluntary Prepayment of Facility B Loans**

The Borrower may, if it gives the Agent not less than five Business Days' prior written notice, prepay the whole or any part of a Facility B Loan (but if in part, being an amount that reduces the Base Currency Amount of the Facility B Loan by a minimum amount of EUR 15,000,000 and, if more, an integral multiple of EUR 5,000,000).

8.5 **Voluntary Prepayment of Facility C1 Loan or Facility C2 Loan**

(a) The Borrower may, if it gives the Agent not less than five Business Days' prior written notice, prepay the whole or any part of the Facility C1 Loan or the Facility C2 Loan.

(b) The Facility C1 Loan or the Facility C2 Loan may only be prepaid after the last day of the Availability Period (or, if earlier, the day on which the applicable Available Facility is zero).

8.6 **Right of repayment and cancellation in relation to a single Lender**

(a) If:

(i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (c) of Clause 13.2 (*Tax gross-up*); or

(ii) any Lender claims indemnification from the Borrower under Clause 13.3 (*Tax indemnity*) or Clause 14.1 (*Increased costs*),

the Borrower may, whilst the circumstance giving rise to the requirement or indemnification continues, give the Agent notice of cancellation of the Commitment of that Lender and its intention to procure the repayment of that Lender's participation in the Loans.

(b) On receipt of a notice referred to in paragraph (a) above, the Commitment of that Lender shall immediately be reduced to zero.

(c) On the last day of each Interest Period which ends after the Borrower has given notice under paragraph (a) above (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay that Lender's participation in that Loan **provided that** such repayment does not result in a Default under this Agreement.

8.7 **Restrictions**

(a) Any notice of cancellation or prepayment given by any Party under this Clause 8 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

(b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.

(c) The Borrower may not reborrow any part of Facility A, Facility C1 or Facility C2 which is prepaid.

(d) Unless a contrary indication appears in this Agreement, any part of Facility B which is prepaid may be reborrowed in accordance with the terms of this Agreement.

(e) The Borrower shall not repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

(f) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

(g) If the Agent receives a notice under this Clause 8 it shall promptly forward a copy of that notice to either the Borrower or the affected Lender, as appropriate.

(h) Any profit received by a Lender as a result of terminating any Hedging Agreements pursuant to a prepayment under this Agreement shall be for the account of the Borrower. The exact amount of such profit shall be calculated by the relevant Lender and shall be justified in writing to the Borrower.

(i) Prepayments shall be made proportionally between Facility A and the aggregate of Facility C1 and Facility C2.

SECTION 5
COSTS OF UTILISATION

9. INTEREST

9.1 Calculation of interest

(a) The rate of interest on the Facility A Loan and each Facility B Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

(i) Margin;

(ii) LIBOR or, in relation to any Loan in euro, EURIBOR; and

(iii) Mandatory Cost, if any.

(b) The rate of interest on the Facility C Loan for its Interest Period is the percentage rate per annum which is the aggregate of the applicable:

(i) Margin;

(ii) before the Redenomination Date, the rate determined in accordance with Schedule 14 (*Defining the JPY Fix Rate*) and, after the Redenomination Date, LIBOR or, in relation to any Loan in euro, EURIBOR; and

(iii) Mandatory Cost, if any.

9.2 Payment of interest

On the last day of each Interest Period relating to the Facility A Loan and each Facility B Loan and Facility C Loan, the Borrower shall pay accrued interest on the Loan to which that Interest Period relates (and, if the Interest Period is longer than six Months, on the dates falling at six Monthly intervals after the first day of the Interest Period).

9.3 Default interest

(a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is two per cent higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration of one Month. Any interest accruing under this Clause 9.3 shall be immediately payable by the Obligor on demand by the Agent.

(b) If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:

(i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and

(ii) the rate of interest applying to the overdue amount during that first Interest Period shall be two per cent. higher than the rate which would have applied if the overdue amount had not become due.

(c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

9.4 **Notification of rates of interest**

The Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.

10. INTEREST PERIODS

10.1 **Selection of Interest Periods**

(a) The Borrower may select an Interest Period for a Loan in the Utilisation Request for that Loan or (if the Loan has already been borrowed) in a Selection Notice.

(b) Each Selection Notice for the Facility A Loan is irrevocable and must be delivered to the Agent by the Borrower not later than the Specified Time.

(c) If the Borrower fails to deliver a Selection Notice to the Agent in accordance with paragraph (b) above, the relevant Interest Period will be one Month.

(d) Subject to this Clause 10, the Borrower may select an Interest Period of:

(i) in the case of the Facility A Loan, one, two, three or six Months;

(ii) in the case of a Facility B Loan, one or two weeks or one, two, three or six Months **provided that** periods of less than one Month may only be selected three times or less; and

(iii) in the case of a Facility C1 Loan or a Facility C2 Loan, one or two weeks or one Month;

or any other period agreed between the Borrower and the Agent (acting on the instructions of all the Lenders).

(e) An Interest Period for a Loan shall not extend beyond the Termination Date applicable to its Facility.

(f) Each Interest Period for the Facility A Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.

(g) A Facility B Loan has one Interest Period only.

10.2 **Non-Business Days**

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

11. CHANGES TO THE CALCULATION OF INTEREST

11.1 Absence of quotations

Subject to Clause 11.2 (*Market disruption*), if LIBOR or, if applicable, EURIBOR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by the Specified Time on the Quotation Day, the applicable LIBOR or EURIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

11.2 Market disruption

(a) If a Market Disruption Event occurs in relation to a Loan for any Interest Period, then the rate of interest on each Lender's share of that Loan for the Interest Period shall be the rate per annum which is the sum of:

(i) the Margin;

(ii) the rate notified to the Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in that Loan from whatever source it may reasonably select; and

(iii) the Mandatory Cost, if any, applicable to that Lender's participation in the Loan.

(b) In this Agreement "**Market Disruption Event**" means:

(i) at or about noon on the Quotation Day for the relevant Interest Period the Screen Rate is not available and none or only one of the Reference Banks supplies a rate to the Agent to determine LIBOR or, if applicable, EURIBOR for the relevant currency and Interest Period; or

(ii) before close of business in London on the Quotation Day for the relevant Interest Period, the Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 50 per cent. of that Loan) that the cost to it of obtaining matching deposits in the Relevant Interbank Market would be in excess of LIBOR or, if applicable, EURIBOR.

11.3 Alternative basis of interest or funding

(a) If a Market Disruption Event occurs and the Agent or the Borrower so requires, the Agent and the Borrower shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.

(b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.

11.4 Break Costs

(a) The Borrower shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by the Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.

(b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

12. FEES

12.1 Arrangement fee

The Borrower shall pay to the Arranger an arrangement fee in the amount and at the times agreed in a Fee Letter.

12.2 Facility fee

The Borrower shall pay to the Agent (for the account of each Original Lender) a fee in euro computed at the rate of 0.05 per cent. of each Original Lender's Facility B Commitment, payable within 15 Business Days of the date of this Agreement.

12.3 Agency fee

The Borrower shall pay to the Agent (for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

12.4 Extension fee

If Facility B is extended, the Borrower shall pay to the Agent (for the account of each Lender extending under Facility B) a fee in euro computed at the rate of 0.075 per cent. of each Lender's Facility B Commitment on the date of such extension, payable within 15 Business Days of such extension.

SECTION 6
ADDITIONAL PAYMENT OBLIGATIONS

13. **TAX GROSS UP AND INDEMNITIES**

13.1 **Definitions**

(a) In this Agreement:

"**Protected Party**" means a Finance Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

"**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment under a Finance Document.

"**Tax Payment**" means either the increase in a payment made by an Obligor to a Finance Party under Clause 13.2 (*Tax gross-up*) or a payment under Clause 13.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 13 a reference to "determines" or "determined" means a determination made in the absolute discretion of the person making the determination.

13.2 **Tax gross-up**

(a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law or regulation.

(b) The Borrower or a Lender shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. If the Agent receives such notification from a Lender it shall notify the Borrower and that Obligor.

(c) If a Tax Deduction is required by law or regulation to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

(d) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law or regulation.

(e) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Agent for the Finance Party entitled to the payment an original receipt (or certified copy thereof) or if unavailable such other evidence as is reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

13.3 **Tax indemnity**

(a) The Borrower shall (within three Business Days of demand by the Agent) pay to a Protected Party an amount equal to the amount of any Tax assessed on that Protected Party (together with any interest, costs or expenses payable, directly or indirectly, or incurred in connection therewith) in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

(b) Paragraph (a) of this Clause 13.3 above shall not apply with respect to any Tax assessed on a Finance Party:

(i) under the laws and regulations of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or

(ii) under the laws and regulations of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income (but not on any sum deemed to be received or receivable in respect of any payment made under Clause 13.2 (*Tax gross-up*)) of that Finance Party.

(c) A Protected Party making, or intending to make a claim pursuant to Paragraph (a) of this Clause 13.3 shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Borrower.

(d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 13.3, notify the Agent.

13.4 **Tax Certificates**

(a) Without prejudice to the other provisions of this Clause 13, in relation to any exemption from or application of a rate lower than that of general application pursuant to any legislation in Spain or any double taxation treaty, or pursuant to any other cause relating to residence status, any Lender which is not a Domestic Lender shall supply the Borrower, through the Agent, prior to the interest payment date with a certificate of residence issued by the pertinent fiscal administration, in the case of a Qualifying Lender which is not a Domestic Lender, accrediting such Qualifying Lender as resident for tax purposes in a Qualifying State or, as the case may be, accrediting such Lender as resident for tax purposes in a State which has signed and ratified a double taxation treaty with Spain.

(b) As such certificates referred to in Paragraph (a) of this Clause 13.4 are, at the date hereof, only valid for a period of one year, each such Lender will be required to so supply a further such certificate upon expiry of the previous certificate in relation to any further payment of interest.

13.5 **Stamp taxes**

The Borrower shall pay and, within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

13.6 **Value added tax**

(a) All consideration expressed to be payable under a Finance Document by any Party to a Finance Party shall be deemed to be exclusive of any VAT. If VAT is chargeable on any supply made by any Finance Party to any Party in connection with a Finance Document, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the VAT.

(b) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify the Finance Party against all VAT incurred by the Finance Party in respect of the costs or expenses to the extent that the Finance Party reasonably determines that it is not entitled to credit or repayment of the VAT.

14. INCREASED COSTS

14.1 **Increased costs**

(a) Subject to Clause 14.3 (*Exceptions*) the Borrower shall, within three Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation (including any change in the Mandatory Cost from that existing at the date of this Agreement) or (ii) compliance with any law or regulation made after the date of this Agreement.

(b) In this Agreement "**Increased Costs**" means:

(i) a reduction in the rate of return from the Facility or on a Finance Party's (or its Affiliate's) overall capital;

(ii) an additional or increased cost; or

(iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

14.2 **Increased cost claims**

(a) A Finance Party intending to make a claim pursuant to Clause 14.1 (*Increased costs*) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Borrower.

(b) Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

14.3 **Exceptions**

(a) Clause 14.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

(i) attributable to a Tax Deduction required by law or regulation to be made by an Obligor;

(ii) compensated for by Clause 13.3 (*Tax indemnity*) (or would have been compensated for under Clause 13.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 13.3 (*Tax indemnity*) applied);

(iii) compensated for by the payment of the Mandatory Cost; or

(iv) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.

(b) In this Clause 14.3, a reference to a "**Tax Deduction**" has the same meaning given to the term in Clause 13.1 (*Definitions*).

15. **OTHER INDEMNITIES**

15.1 **Currency indemnity**

(a) If any sum due from an Obligor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

(i) making or filing a claim or proof against that Obligor;

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

15.2 **Other indemnities**

Each Obligor shall, within five Business Days of demand, indemnify each Finance Party against any cost, loss or liability not otherwise compensated under the provisions of this Agreement and excluding any lost profits, consequential or indirect damages (other than interest or default interest) incurred by that Finance Party as a result of its Commitment or the making of any Loan under the Finance Documents as a result of:

(a) the occurrence of any Event of Default;

(b) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 28 (*Sharing among the Finance Parties*);

(c) funding, or making arrangements to fund, its participation in a Loan requested by a Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or

(d) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower.

15.3 **Indemnity to the Agent**

The Borrower shall promptly indemnify the Agent against any cost, loss or liability directly related to this Agreement incurred by the Agent (acting reasonably and otherwise than by reason of the Agent's gross negligence or wilful misconduct) as a result of:

(a) investigating any event which it reasonably believes (acting prudently and, if possible, following consultation with the Borrower) is a Default; or

(b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

16. MITIGATION BY THE LENDERS

16.1 **Mitigation**

(a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise after the date of this Agreement and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 8.1 (*Illegality*), Clause 13 (*Tax gross-up and indemnities*), Clause 14 (*Increased costs*) or paragraph 3 of Schedule 4 (*Mandatory Cost Formulae*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

(b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

16.2 **Limitation of liability**

(a) The Borrower shall indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 16.1 (*Mitigation*).

(b) A Finance Party is not obliged to take any steps under Clause 16.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

17. COSTS AND EXPENSES

17.1 Transaction expenses

The Borrower shall promptly on demand pay the Agent and the Arranger the amount of all costs and expenses (including legal fees and fees relating to publicity which has been approved by the Borrower) reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution and syndication of:

(a) this Agreement and any other documents referred to in this Agreement; and

(b) any other Finance Documents executed after the date of this Agreement.

17.2 Amendment costs

If (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 29.9 (*Change of currency*), the Borrower shall, within three Business Days of demand, reimburse the Agent, the Arranger and each Lender for the amount of all costs and expenses (including legal fees, but in this case, only the legal fees of one law firm in each relevant jurisdiction acting on behalf of all the Lenders) reasonably incurred by such parties in responding to, evaluating, negotiating or complying with that request or requirement.

17.3 Enforcement costs

The Borrower shall, within three Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

SECTION 7
GUARANTEE

18. GUARANTEE AND INDEMNITY

18.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

(a) guarantees to each Finance Party punctual performance by the Borrower of all the Borrower's obligations under the Finance Documents;

(b) undertakes with each Finance Party that whenever the Borrower does not pay any amount when due under or in connection with any Finance Document, it shall immediately on demand pay that amount as if it was the principal obligor; and

(c) indemnifies each Finance Party immediately on demand against any cost, loss or liability suffered by that Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that Finance Party would otherwise have been entitled to recover.

18.2 Continuing guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by the Borrower under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

18.3 Reinstatement

If any payment by the Borrower or any discharge given by a Finance Party (whether in respect of the obligations of the Borrower or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

(a) the liability of the Borrower shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

(b) each Finance Party shall be entitled to recover the value or amount of that security or payment from the Borrower, as if the payment, discharge, avoidance or reduction had not occurred.

18.4 Waiver of defences

The obligations of each Guarantor under this Clause 18 will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Clause 18 (without limitation and whether or not known to it or any Finance Party) including:

(a) any time, waiver or consent granted to, or composition with, the Borrower or other person;

(b) the release of the Borrower or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower or any other person;

(e) any amendment (however fundamental) or replacement of a Finance Document or any other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or

(g) any insolvency or similar proceedings.

18.5 **Immediate recourse**

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from a Guarantor under this Clause 18. This waiver applies irrespective of any law or regulation or any provision of a Finance Document to the contrary.

18.6 **Appropriations**

Until all amounts which may be or become payable by the Borrower under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

(a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any moneys received from a Guarantor or on account of such Guarantor's liability under this Clause 18.

18.7 **Deferral of Guarantors' rights**

Until all amounts which may be or become payable by the Borrower under or in connection with the Finance Documents have been irrevocably paid in full and unless the Agent otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents:

(a) to be indemnified by the Borrower;

(b) to claim any contribution from any other guarantor of the Borrower's obligations under the Finance Documents; and/or

(c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party.

18.8 **Additional security**

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

SECTION 8
REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

19. REPRESENTATIONS

Each Obligor makes the representations and warranties set out in this Clause 19 to each Finance Party on the date of this Agreement.

19.1 Status

(a) It is a corporation, duly organised and validly existing under the laws and regulations of its jurisdiction of incorporation.

(b) It has the power to own its assets and carry on its business as it is being conducted.

19.2 Binding obligations

The obligations expressed to be assumed by it in each Finance Document are, subject to any reservations which are specifically referred to in any legal opinion delivered pursuant to Clause 4 (*Conditions of Utilisation*), legal, valid, binding and enforceable obligations.

19.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

(a) any law or regulation applicable to it;

(b) its constitutional documents; or

(c) any agreement or instrument binding upon it or any of its assets.

19.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

19.5 Validity and admissibility in evidence

All Authorisations required or desirable:

(a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and

(b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation,

(c) have been obtained or effected and are in full force and effect.

19.6 Governing law and enforcement

(a) The choice of English law as the governing law of the Finance Documents will be recognised and enforced in its jurisdiction of incorporation.

(b) Any judgment obtained in England in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation, subject to any reservations which are specifically referred to in any legal opinion delivered pursuant to Clause 4 (*Conditions of Utilisation*).

19.7 **Deduction of Tax**

It is not required under the laws and regulations of its jurisdiction of incorporation to make any deduction for or on account of Tax from any payment it may make under any Finance Document to any Qualifying Lender.

19.8 **No filing or stamp taxes**

Under the laws and regulations of its jurisdiction of incorporation it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents.

19.9 **No default**

(a) No Default or Event of Default is continuing or might reasonably be expected to result from the making of any Utilisation.

(b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or its Subsidiaries') assets are subject which might have a Material Adverse Effect.

19.10 **No misleading information**

(a) Any factual information provided by the Borrower for the purposes of the Information Memorandum was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.

(b) The financial projections contained in the Information Memorandum have been prepared in good faith on the basis of recent historical information and on the basis of the assumptions stated therein, which assumptions were fair in the light of conditions existing at the time of delivery of such forecasts, and represented, at the time of delivery, the Borrower's best estimate of its future performance.

(c) Nothing has occurred or been omitted from the Information Memorandum and no information has been given or withheld that results in the information contained in the Information Memorandum being untrue or misleading in any material respect.

(d) All written information (other than the Information Memorandum) supplied by any member of the Group is true, complete and accurate in all material respects as at the date it was given and is not misleading in any respect.

19.11 **Financial statements**

(a) Its Original Financial Statements were prepared in accordance with GAAP consistently applied and are complete and accurate in all material respects.

(b) Its Original Financial Statements fairly represent its financial condition and operations during the relevant financial year.

(c) For the purposes of any repetition of the representation contained in paragraphs (a) and (b) of this Clause 19.11 (pursuant to Clause 19.21 (*Repetition*)) the representations will be made in respect of the latest consolidated financial statements of each Obligor instead of the Original Financial Statements.

19.12 **Pari passu ranking**

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law or regulation applying to companies generally.

19.13 **No proceedings pending or threatened**

Except as disclosed in Schedule 13 (*Proceedings Pending or Threatened*), no litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which (i) are likely to be adversely determined and which, if so determined, would be reasonably likely to have a Material Adverse Effect or (ii) (where not of a frivolous or vexatious nature or where not dismissed within 30 days of commencement) purports to affect the legality, validity or enforceability of any of the obligations under the Finance Documents have been started or threatened against any Obligor or any Material Subsidiary.

19.14 **No winding-up**

No legal proceedings or other procedures or steps have been taken or are threatening in relation to the winding-up, dissolution, administration or reorganisation of any Obligor or Material Subsidiary (other than a solvent liquidation or reorganisation of any Material Subsidiary which is not an Obligor).

19.15 **Security**

It is in compliance with its obligations under Clause 22.6 (*Negative pledge*).

19.16 **Material Adverse Change**

There has been no material adverse change in the Borrower's business, condition (financial or otherwise), operations, performance or assets taken as a whole (or the business, consolidated condition (financial or otherwise) operations, performance or the assets generally of the Group taken as a whole) since its Original Financial Statements.

19.17 **Environmental compliance**

Each member of the Group has performed and observed in all material respects all Environmental Law, Environmental Permits and all other material covenants, conditions, restrictions or agreements directly or indirectly concerned with any contamination, pollution or waste or the release or discharge of any toxic or hazardous substance in connection with any real property which is or was at any time owned, leased or occupied by any member of the Group or on which any member of the Group has conducted any activity where failure to do so might reasonably be expected to have a Material Adverse Effect.

19.18 **Environmental Claims**

No Environmental Claim has been commenced or (to the best of its knowledge and belief) is threatened against any member of the Group where that claim would be reasonably likely, if determined against that member of the Group to have a Material Adverse Effect.

19.19 **No Immunity**

In any proceedings taken in its jurisdiction of incorporation in relation to this Agreement, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

19.20 **Private and commercial acts**

Its execution of the Finance Documents constitutes, and its exercise of its rights and performance of its obligations hereunder will constitute, private and commercial acts done and performed for private and commercial purposes.

19.21 **Repetition**

The Repeating Representations are deemed to be made by each Obligor (by reference to the facts and circumstances then existing) on the date of each Utilisation Request and the first day of each Interest Period.

20. **INFORMATION UNDERTAKINGS**

The undertakings in this Clause 20 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

20.1 **Financial statements**

The Borrower shall supply to the Agent in sufficient copies for all the Lenders:

(a) as soon as the same become available, but in any event within 180 days after the end of each of such Obligor's respective financial years:

(i) the Borrower's audited consolidated and unconsolidated financial statements for that financial year; and

(ii) each Guarantor's respective audited consolidated (to the extent available) and unconsolidated financial statements for that financial year; and

(b) as soon as the same become available, but in any event within 90 days after the end of each half of each of its financial years, its consolidated and unconsolidated financial statements for that financial half year.

20.2 **Compliance Certificate**

(a) The Borrower shall supply to the Agent, with each set of consolidated financial statements delivered pursuant to paragraphs (a) (i) and (b) of Clause 20.1 (*Financial statements*), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 21 (*Financial Covenants*) as at the date as at which those financial statements were drawn up.

(b) Each Compliance Certificate shall be signed by an Authorised Signatory of the Borrower and, if required to be delivered with the consolidated financial statements delivered pursuant to paragraph (a) (i) of Clause 20.1 (*Financial statements*), by the Borrower's auditors.

20.3 **Requirements as to financial statements**

(a) Each set of financial statements delivered by the Borrower pursuant to Clause 20.1 (*Financial statements*) shall be certified by an Authorised Signatory of the relevant company as fairly representing its financial condition as at the date as at which those financial statements were drawn up.

(b) The Borrower shall procure that each set of financial statements delivered pursuant to Clause 20.1 (*Financial statements*) is prepared using GAAP and accounting practices and financial reference periods consistent with those applied in the preparation of the audited Original Financial Statements for that Obligor unless, in relation to any set of financial statements, it notifies the Agent that there has been a change in GAAP, or the accounting practices or reference periods and, unless amendments are agreed in accordance with paragraph (c) of this Clause 20.3, its auditors (or, if appropriate, the auditors of the Obligor) deliver to the Agent:

(i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which that Obligor's audited Original Financial Statements were prepared; and

(ii) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 21 (*Financial covenants*) has been complied with and make an accurate comparison between the financial position indicated in those financial statements and that Obligor's audited Original Financial Statements.

(c) If the Borrower adopts International Accounting Standards, the Borrower and the Agent shall, at the Borrower's request, negotiate in good faith with a view to agreeing such amendments to the financial covenants in Clause 21 (*Financial Covenants*) and the ratios used to calculate the Margin and, in each case, the definitions used therein as may be necessary to ensure that the criteria for evaluating the Group's financial condition grant to the Lenders protection equivalent to that which would have been enjoyed by them had the Borrower not adopted International Accounting Standards. Any amendments agreed will take effect on the date agreed between the Agent and the Borrower subject to the consent of the Majority Lenders. If no such agreement is reached within 90 days of the Borrower's request, the Borrower will remain subject to the obligation to deliver the information specified in paragraph (b) of this Clause 20.3.

20.4 **Information: miscellaneous**

The Borrower shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

(a) all documents dispatched by the Borrower to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;

(b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Group, and which might, if adversely determined, have a Material Adverse Effect; and

(c) promptly, such further information regarding the financial condition, assets and business of any Obligor or member of the Group as the Agent (or any Lender through the Agent) may reasonably request (including, but not limited to, information on Rating, if such credit rating has not been publicly announced) other than any information the disclosure of which would result in a breach of any applicable law or regulation or confidentiality agreement entered into in good faith **provided that** the Borrower shall use reasonable efforts to be released from any such confidentiality agreement.

20.5 **Notification of default**

(a) Each Obligor shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).

(b) Promptly upon a request by the Agent, the Borrower shall supply to the Agent a certificate signed by an Authorised Signatory on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

20.6 **Money laundering obligations**

(a) Each Obligor shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation (if any) and other evidence (if any) as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective New Lender) in order for the Agent, such Lender or any prospective New Lender to comply with its obligations under any laws or regulations relating to money laundering.

(b) Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent to comply with its obligations under any laws or regulations relating to money laundering.

20.7 **Notarisations**

Each Obligor shall notify the Agent of any Notarisations referred to in paragraph (a) (iv) of Clause 22.5 (*Notarisation*) promptly upon such Notarisations taking place.

21. **FINANCIAL COVENANTS**

21.1 **Financial definitions**

In this Clause 21:

"**Adjusted EBITDA**" means, for any Relevant Period, the sum of (a) EBITDA and (b) with respect to any business acquired during such period, the sum of (i) the operating income and (ii) depreciation and amortization expense for such business, as determined in accordance with GAAP for such Relevant Period, **provided that** the Borrower need only make the adjustments contemplated by "(b)" above if the operating income and depreciation and amortization expense of the acquired business in the 12 Months prior to its acquisition amount to EUR 10,000,000 or more.

"**Cemex Capital Contributions**" means contributions in cash to the capital of the Borrower by CEMEX S.A. de C.V. or by any of its Subsidiaries not being a Subsidiary of the Borrower made after 1 January 2004.

"**EBITDA**" means for the Relevant Period immediately preceding the date on which it is to be calculated, operating profit plus annual depreciation for fixed assets plus annual amortisation of intangible assets plus annual amortisation of start up costs of the Group plus dividends received from non-consolidated companies and from companies consolidated by the equity method plus an amount equal to the amount of Cemex Capital Contributions made during such period immediately preceding the date on which it is to be calculated (up to an amount equal to the amount of Royalty Expenses made in such period) plus the income recorded during such period for the use of $C0_2$ Emission Rights (to the extent not already included in the calculation of operating profit). Such calculation shall be made in accordance with GAAP.

"**Finance Charges**" means for any Relevant Period, the sum (without duplication) of (a) all interest expense in respect of Financial Indebtedness (including imputed interest on Capital Leases) for such period plus (b) all debt discount and expense (including, without limitation, expenses relating tithe issuance of instruments representing Financial Indebtedness) amortized during such period plus (c) amortization of discounts on sales of receivables during such period plus (d) all factoring charges for such period plus (e) all guarantee charges for such period plus (f) any charges analogous to the foregoing relating to Off-Balance-Sheet Transactions for such period, all determined on a consolidated basis in accordance with GAAP.

"**Guarantees**" means any guarantee or indemnity (in the case of the latter for any specified amount or otherwise in the amount specified in or for which provision has been made in the accounts of the indemnifier) in any form made other than in the ordinary course of business of the guarantor.

"**Intellectual Property Rights**" means all copyrights (including rights in computer software), trade marks, service marks, business names, patents, rights in inventions, registered designs, design rights, database rights and similar rights, rights in trade secrets or other confidential information and any other intellectual property rights and any interests (including by way of license) in any of the foregoing (in each case whether registered or not and including all applications for the same) which may subsist in any given jurisdiction.

"**Net Borrowings**" means, at any time, the remainder of (a) Total Borrowings at such time less (b) the aggregate amount of the following items held by the Borrower and its Subsidiaries at such time: cash on hand, marketable securities, investments in money market funds, banker's acceptances, short-term deposits and other liquid investments.

"**Off-Balance-Sheet Transactions**" means any present or future financing transaction not reflected as indebtedness on the consolidated balance sheet of the Borrower, but being structured in a way that may result in payment obligations by any Group member, excluding any financing transaction in the form of:

(a) interest rate and currency exchange rate hedging agreements to hedge risks arising in the normal course of business;

(b) transactions containing potential payments by any Group member (e.g. via a put-option agreement or similar structures) under which payments are incapable of being triggered until three days after the Termination Date in relation to Facility A; or

(c) any supply arrangement or equipment lease in respect of energy or raw material sourcing containing contingent obligations to directly or indirectly purchase (including through the purchase of shares or other equity participation) the underlying operations or assets up to an aggregate maximum of $100,000,000.

"**Relevant Period**" means each period of twelve Months ending on the last day of the first half of the Borrower's financial year and each period of twelve Months ending on the last day of the Borrower's financial year.

"**Rolling Basis**" means the calculation of a ratio or an amount made at the end of a financial half year in respect of that financial half year and the immediately preceding financial half year.

"**Royalty Expenses**" means expenses incurred by the Borrower or any of its Subsidiaries to CEMEX S.A. de C.V. or any of its Subsidiaries not being a Subsidiary of the Borrower as (a) consideration for the granting to the Borrower or any Subsidiary of a licence to use, exploit and enjoy Intellectual Property Rights and any other intangible assets such as, but not limited to, know-how, formulae, process technology and other forms of intellectual and industrial property, whether or not registered, held by CEMEX S.A. de C.V. or any of its Subsidiaries not being a Subsidiary of the Borrower; or (b) fees, commissions or other amounts accrued in respect of any management contract, services contract, overhead expenses allocation arrangement or any other similar transaction; provided that in clauses (a) and (b) such amounts shall have been taken into consideration in the calculation of operating profit under Spanish GAAP.

"**Subordinated Debt**" means debt granted by CEMEX S.A. de C.V. (a company registered in Mexico) or any of its Subsidiaries not being a member of the Group to the Borrower or any of its Subsidiaries on terms such that no payments of principal may be made thereunder (including but not limited to following any winding up, *suspensión de pagos* or *quiebra* or other like event of the Borrower) until the Agent has confirmed in writing that all amounts outstanding hereunder have been paid in full.

"**Total Borrowings**" means without duplication, in respect of any person all Guarantees granted by such person, plus all Off-Balance-Sheet Transactions entered into by such person, plus all such person's Financial Indebtedness, but excluding any Subordinated Debt.

21.2 **Financial condition**

The Borrower shall ensure that in respect of any Relevant Period:

(a) the ratio of Net Borrowings to Adjusted EBITDA calculated on a Rolling Basis shall be less than or equal to 3.5:1; and

(b) the ratio of EBITDA to Finance Charges calculated on a Rolling Basis shall be greater than or equal to 3:1.

21.3 **Financial testing**

The financial covenants set out in Clause 21.2 (*Financial condition*) shall be tested semi-annually by reference to each of the Borrower's consolidated financial statements delivered pursuant to and/or each Compliance Certificate delivered with respect to any such consolidated financial statements pursuant to Clause 20.1 (*Financial statements*) and Clause 20.2 (*Compliance Certificate*).

21.4 **Accounting terms**

All accounting expressions which are not otherwise defined herein shall have the meaning ascribed thereto in GAAP.

22. **GENERAL UNDERTAKINGS**

The undertakings in this Clause 22 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

22.1 **Authorisations**

Each Obligor shall promptly:

(a) obtain, comply with and do all that is necessary to maintain in full force and effect; and

(b) supply certified copies to the Agent of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document.

22.2 **Preservation of corporate existence**

Subject to Clause 22.8 (*Merger*), each Obligor shall (and the Borrower shall ensure that each of its Subsidiaries will), preserve and maintain its corporate existence and rights.

22.3 **Preservation of properties**

Each Obligor shall (and the Borrower shall ensure that each of its Subsidiaries will) maintain and preserve all of its properties that are used or useful in the conduct of its business in good working order and condition, ordinary wear and tear excepted.

22.4 **Compliance with laws and regulations**

(a) Each Obligor shall (and shall procure that each of its Subsidiaries will) comply in all respects with all laws and regulations to which it may be subject, if failure to so comply would be likely to have a Material Adverse Effect.

(b) The Borrower shall (and shall procure that each of its Subsidiaries will) comply with ERISA and will ensure that the levels of contribution to pension schemes are and continue to be sufficient to comply with all its and their material obligations under such schemes and generally under applicable laws and regulations, except where failure to make such contributions would not reasonably be expected to have a Material Adverse Effect.

22.5 **Notarisation**

(a) Subject to paragraph (b) of this Clause 22.5, the Borrower shall not (and shall procure that none of its Subsidiaries will) permit any of its unsecured indebtedness to be notarised as a Spanish Public Document (any such notarisation, a " **Notarisation**"), other than the following permitted Notarisations ("**Permitted Notarisations**"):

(i) any Permitted Notarisations listed in Schedule 8 (*Existing Notarisations*) and any amendments or modifications thereof, **provided that** any such amendment or modification shall not result in the increase of the principal amount of the relevant indebtedness nor the extension of the maturity thereof nor, for the avoidance of doubt, relate to any refinancing of the relevant indebtedness;

(ii) Notarisations which are required by applicable law or regulation or which arise by operation of law other than pursuant to any issue of debt securities in accordance with Article 285 of the Spanish Corporations Law (*Ley de Sociedades Anónimas*);

(iii) Notarisations with the prior written consent of the Majority Lenders;

(iv) any Notarisations securing indebtedness the principal amount of which (when aggregated with the principal amount of any other Notarisations other than any Permitted Notarisations under paragraphs (i) or (iii) above) do not exceed EUR 100,000,000 (or its equivalent in another currency or currencies); and

(v) any Notarisations relating to indebtedness in respect of any sale and purchase agreement customarily registered in a public register in Spain and payment of which indebtedness is made within seven days of the date of such agreement.

(b) Paragraph (a) of this Clause 22.5 shall not apply if the Borrower, concurrently with any such Notarisation (not being a Permitted Notarisation) referred to in paragraph (a) of this Clause 22.5 and at its own cost and expense, causes this Agreement to be the subject of a Notarisation.

22.6 **Negative pledge**

The Borrower shall not and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Security on or with respect to any of its property or assets or those of any Subsidiary, whether now owned or held or hereafter acquired, other than the following Security ("**Permitted Security**"):

(a) Security for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made;

(b) statutory liens of landlords and liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made;

(c) liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security;

(d) any judgment lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(e) Security existing on the date of this Agreement as described in Schedule 7 (*Existing Security*) **provided that** the amount secured thereby is not increased;

(f) any Security on property acquired by the Borrower or any of its Subsidiaries after the date of this Agreement that was existing on the date of acquisition of such property; **provided that** such Security was not incurred in anticipation of such acquisition, and any Security created to secure all or any payment of the purchase price, or to secure indebtedness incurred or assumed to pay all or any part of the purchase price, of property acquired by the Borrower or any of its Subsidiaries after the date of this Agreement **provided, further, that** (i) any such Security permitted pursuant to this paragraph (f) shall be confined solely to the item or items of property so acquired (including, in the case of any acquisition of a corporation through the acquisition of 51% or more of the voting stock of such corporation, the stock and assets of any acquired Subsidiary or acquiring Subsidiary by which the acquired Subsidiary will be directly or indirectly controlled) and, if required by the terms of the instrument originally creating such Security, other property which is an improvement to, or is acquired for specific use with, such acquired property; (ii) if applicable, any such Security shall be created within nine Months after, in the case of property, its acquisition, or, in the case of improvements, their completion; and (iii) no such Security shall be made in respect of any indebtedness in relation to repayment of which recourse may be had to any member of the Group other than in relation to the item or items as referred to in (i) above;

(g) any Security renewing, extending or refinancing the indebtedness to which any Security permitted by paragraph (f) above relates; **provided that** the principal amount of indebtedness secured by such Security immediately prior thereto is not increased and such Security is not extended to other property;

(h) the transfer of shares or any other instrument of title representing an equity participation in the Asia Fund into a trust;

(i) any Security created on shares representing no more than a Stake in the capital stock of any of the Borrower's Subsidiaries solely as a result of the deposit or transfer of such shares into a trust or a special purpose corporation (including any entity with legal personality) of which such shares constitute the sole assets **provided that** the proceeds from the deposit or transfer of such shares into such trust, corporation or entity and from any transfer of or distributions in respect of the Borrower's or any Subsidiary's interest in such trust, corporation or entity are applied as provided under Clause 22.7 (*Disposals*) and **provided further that** such Security may not secure Financial Indebtedness of the Borrower or any Subsidiary unless otherwise permitted under this Clause 22.6 and that the economic and voting rights in such capital stock is maintained by the Borrower in its Subsidiaries;

(j) any Security permitted by the Agent, acting on the instructions of the Majority Lenders;

(k) any securitisation of receivables notwithstanding that it is made at discount from the amount due on such receivables and **provided that** it is made on a non recourse basis or that recourse is directly or indirectly limited to collection of the receivables plus related interest and financial and collection costs and expenses;

(l) in addition to the Security permitted by the foregoing paragraphs (a) to (k), Security securing indebtedness of the Borrower and its Subsidiaries (taken as a whole) not in excess of an amount equal to 5% of the Adjusted Consolidated Net Tangible Assets of the Group, as determined in accordance with GAAP;

unless, in each case, the Obligors have made or caused to be made effective provision whereby the obligations hereunder are secured equally and rateably with, or prior to, the indebtedness secured by such Security (other than Permitted Security) for so long as such indebtedness is so secured.

For the purposes of paragraph (l) of this Clause 22.6, "**Adjusted Consolidated Net Tangible Assets**" means, with respect to any person, the total assets of such person and its Subsidiaries (less applicable depreciation, amortisation and other valuation reserves), including any write-ups or restatements required under GAAP (other than with respect to items referred to in (ii) below), minus (i) all current liabilities of such person and its Subsidiaries (excluding the current portion of long-term debt) and (ii) all goodwill, trade

names, trademarks, licences, concessions, patents, un-amortised debt discount and expense and other intangibles, all as determined on a consolidated basis in accordance with GAAP.

22.7 **Disposals**

(a) Subject to paragraph (b) of this Clause 22.7, the Borrower shall not (and the Borrower shall ensure that none of its Subsidiaries will), without the prior written consent of the Majority Lenders, enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of all its assets or a substantial part of its assets representing more than 5 per cent. in aggregate of the total consolidated assets of the Group, calculated by reference to the latest consolidated financial statements of the Borrower, delivered pursuant to paragraph (a) (i) of Clause 20.1 (*Financial statements*), unless (i) full value for such assets is received by the Borrower or its Subsidiaries; (ii) an amount equal to the net proceeds of any such sale, lease, transfer or other disposal to the extent that such sale, lease, transfer or other disposal relates to assets representing more than 5 per cent. in aggregate of the total consolidated assets of the Group, calculated by reference to the latest consolidated financial statements of the Borrower delivered pursuant to paragraph (a) (i) of Clause 20.1 (*Financial statements*) is reinvested within twelve Months of receipt by the Borrower or its Subsidiaries in the business of the Group; and (iii) neither such sale, lease, transfer or other disposal nor such reinvestment directly results in an adverse change to the Rating of the Borrower as at the date hereof (namely, S&P:BBB- and Moody's:Baa3).

(b) Paragraph (a) of this Clause 22.7 does not apply to any sale, lease, transfer or other disposal of assets:

(i) made on arm's length terms and for fair market value in the ordinary course of business of the disposing entity;

(ii) in respect of any securitisation of receivables notwithstanding that it is made at discount from the amount due on such receivables and **provided that** it is made on a non-recourse basis or that recourse is directly or indirectly limited to collection of the receivables plus related interest and financial and collection costs and expenses;

(iii) from any member of the Group to another member of the Group on arm's length terms and for fair market or book value **provided that** the exception contained in this paragraph (iii) shall not apply to any sale, lease, transfer or other disposal of an asset

(A) from any Obligor to another member of the Group which is not an Obligor unless the person to whom such sale, lease, transfer or other disposal is made (the "**Transferee**") becomes a Guarantor; or

(B) from any Material Subsidiary to another member of the Group which is not a Material Subsidiary unless the person making such

sale, lease, transfer or other disposal does not cease to be a Material Subsidiary or, if it ceases to be a Material Subsidiary, any Transferee shall be deemed to be a Material Subsidiary;

(iv) (A) in respect of which the net proceeds are used to repay any amounts outstanding hereunder in an amount equal to such net proceeds and (B) if the Available Commitments in an amount equal thereto are cancelled;

(v) in respect of which the proceeds are applied pursuant to any prepayment requirement included as at the date hereof in existing loan agreements of any Subsidiary in relation to the use of proceeds received from the disposal of any assets.

22.8 **Merger**

(a) Subject to paragraphs (b) and (c) of this Clause 22.8, unless it has obtained the prior written approval of the Majority Lenders, no Obligor shall (and the Borrower shall ensure that none of its Subsidiaries will) enter into any amalgamation, demerger, merger or other corporate reconstruction (a "**Reconstruction**"), other than (i) a Reconstruction relating only to the Borrower's Subsidiaries *inter se*; (ii) a Reconstruction between the Borrower and any of its Subsidiaries; or (iii) a solvent reorganisation or liquidation of any of the Subsidiaries not being Obligors, **provided that** in any case no Default shall have occurred and be continuing at the time of such transaction or would result therefrom and **provided further that** (a) none of the Security (if any) granted to the Lenders nor the guarantees granted by the Guarantors hereunder is or are adversely affected as a result, and (b) the resulting entity, if it is not an Obligor, assumes the obligations of the Obligor the subject of the merger.

(b) Subject to paragraph (c) of this Clause 22.8, the Obligors may merge with any other person if the book value of such person's assets prior to the merger does not exceed 3 per cent. of the book value of the Group's assets taken as a whole considered on a consolidated basis.

(c) In paragraphs (a) and (b) of this Clause 22.8, the Rating of the Borrower as of the date hereof (namely, S&P:BBB- and Moody's:Baa3) shall not be adversely affected whether at the time of, or within 3 Months of, the date of announcement of a Reconstruction, directly as a result of any merger involving the Borrower, and the resulting entity, if it is not an Obligor, shall assume the obligations of the Obligor the subject of the merger.

22.9 **Change of business**

(a) None of the Obligors shall make a substantial change to the general nature of its business from that carried on at the date of this Agreement and there shall be no cessation of business in relation to any of the Obligors (save (except in the case of the Borrower which shall in no event cease or substantially change its business) unless another Obligor continues to operate any such business).

(b) The Borrower shall procure that no substantial change is made to the general nature of the business of any of its Material Subsidiaries (other than a Guarantor) from that carried on at the date of this Agreement and that there shall be no cessation of such business.

22.10 **Insurance**

The Obligors shall (and the Borrower shall ensure that each of its Material Subsidiaries (other than the Obligors) will) maintain insurances on and in relation to its business and assets with reputable underwriters or insurance companies against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.

22.11 **Environmental Compliance**

The Borrower shall (and the Borrower shall ensure that each of its Subsidiaries will) comply in all material respects with all Environmental Law and obtain and maintain any Environmental Permits and take all reasonable steps in anticipation of known or expected future changes to or obligations under the same, in each case where failure to do so might reasonably be expected to have a Material Adverse Effect.

22.12 **Environmental Claims**

The Borrower shall inform the Agent in writing as soon as reasonably practicable upon becoming aware of the same:

(a) if any Environmental Claim has been commenced or (to the best of the Borrower's knowledge and belief) is threatened against any member of the Group, or

(b) of any facts or circumstances which will or are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group,

where the claim would be reasonably likely, if determined against that member of the Group, to have a Material Adverse Effect.

22.13 **Transactions with Affiliates**

Each Obligor shall (and the Borrower shall ensure that its Subsidiaries will) ensure that any transactions with respective Affiliates are on terms that are fair and reasonable and no less favourable to such Obligor or such Subsidiary than it would obtain in a comparable arm's-length transaction with a person not an Affiliate.

22.14 **Pari passu ranking**

Each Obligor shall ensure that its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law or regulation applying to companies generally from time to time.

22.15 **Payment restrictions affecting Subsidiaries**

The Borrower shall not enter into or suffer to exist, or permit any of its Subsidiaries to enter into or suffer to exist, any agreement or arrangement directly limiting the ability of any of its Subsidiaries to:

(a) declare or pay dividends or other distributions in respect of its or their respective equity interests in a Subsidiary, except any agreement or arrangement

(other than in relation to the Asia Fund as at the date hereof) entered into by a person prior to such person becoming a Subsidiary, in which case the Borrower shall use its reasonable endeavours to remove such limitations. If, however, as a result of the acquisition of such person, any of the Ratings assigned by S&P or Moody's to the Borrower or any of the Ratings assigned by S&P or Moody's to any issue under the Euro 2,000 million medium term note programme guaranteed by the Borrower and the guarantors (the "Programme") (i) are reduced but the Ratings of both S&P and Moody's of the Borrower and the Programme remain Investment Grade, the Borrower shall use its best endeavours to remove such limitation; or (ii) are reduced below Investment Grade, the Borrower shall procure that such limitation be removed within 3 Months of the date of such acquisition. In any event, the Borrower shall have the option, in any of the circumstances described above, to procure that the person acquired becomes a Guarantor instead of removing such limitations;

or

(b) repay any intercompany indebtedness owed by any Subsidiary to any Obligor and, for the avoidance of doubt, subordination provisions shall not be considered a limitation for the purpose of this Clause 22.15.

22.16 **Indebtedness of Guarantors**

None of the Guarantors shall incur or permit to exist any Financial Indebtedness other than:

(a) Financial Indebtedness in respect of its taxes or costs, incurred pursuant to legal requirements;

(b) Financial Indebtedness owed to another member of the Group;

(c) Financial Indebtedness of another member of the Group guaranteed by a Guarantor; and

(d) Financial Indebtedness not falling within paragraph (a) to (c) above, in an aggregate amount not exceeding Euro 3,000,000 (or the equivalent thereof in any other currency).

22.17 **Notification of adverse change in Rating**

The Borrower shall promptly notify the Agent of any adverse change in its Rating or Outlook.

23. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 23 is an Event of Default.

23.1 **Non-payment**

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless such failure to pay is caused by an administrative error or technical difficulties within the banking system in relation to the transmission of funds and payment is made within three Business Days of its due date.

23.2 **Financial covenants**

Any requirement of Clause 21 (*Financial Covenants*) is not satisfied.

23.3 **Other obligations**

(a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 23.1 (*Non-payment*) and Clause 23.2 (*Financial covenants*)).

(b) No Event of Default under paragraph (a) of this Clause 23.3 above will occur if the failure to comply is capable of remedy and is remedied within fifteen Business Days of the Agent giving written notice to the Borrower or the Borrower becoming aware of the failure to comply whichever is the earlier.

23.4 **Misrepresentation**

Any representation or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

23.5 **Cross acceleration**

(a) Any Financial Indebtedness of any Obligor or member of the Group is not paid when due nor within any originally applicable grace period.

(b) Any Financial Indebtedness of any Obligor or member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

(c) No Event of Default will occur under this Clause 23.5 if the aggregate amount of Financial Indebtedness falling within paragraphs (a) and (b) of this Clause 23.5 above is less than EUR 27,500,000 (or its equivalent in any other currency or currencies).

23.6 **Insolvency**

(a) Any of the Obligors or Material Subsidiaries is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.

(b) The value of the assets of any of the Obligors or Material Subsidiaries is less than its liabilities (taking into account contingent and prospective liabilities).

(c) A moratorium is declared in respect of any indebtedness of any of the Obligors or Material Subsidiaries.

23.7 **Insolvency proceedings**

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

(a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any of the Obligors or Material Subsidiaries other than a solvent liquidation or reorganisation of any of the Material Subsidiaries not being Obligors;

(b) a composition, assignment or arrangement with any creditor of any of the Obligors or Material Subsidiaries;

(c) the appointment of a liquidator (other than in respect of a solvent liquidation of any of the Material Subsidiaries not being Obligors), receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any of the Obligors or Material Subsidiaries or any of their assets;

or any analogous procedure or step is taken in any jurisdiction.

23.8 **Expropriation and sequestration**

Any expropriation or sequestration affects any asset or assets of any Obligor or any Material Subsidiary and has a Material Adverse Effect.

23.9 **Creditors' process and enforcement of Security**

(a) Any Security is enforced against any Obligor or any Material Subsidiary.

(b) Any attachment, distress or execution affects any asset or assets of any Obligor or any Material Subsidiary.

(c) No Event of Default under paragraphs (a) or (b) of this Clause 23.9 above will occur if:

(i) the action is being contested in good faith by appropriate proceedings;

(ii) the principal amount of the indebtedness secured by such Security or in respect of which such attachment, distress or execution is carried out represents less than EUR 27,500,000 (or its equivalent in any other currency or currencies); and

(iii) the enforcement proceedings, attachment, distress or execution is or are discharged within 28 days of commencement.

23.10 **Failure to comply with judgment**

Any Obligor or any Material Subsidiary fails to comply with or pay any sum due from it under any judgment or any order made or given by any court of competent jurisdiction save unless payment of any such sum is suspended pending an appeal.

23.11 **Unlawfulness**

It is or becomes unlawful for an Obligor to perform any of its obligations under the Finance Documents.

23.12 **Repudiation**

An Obligor repudiates a Finance Document or evidences an intention to repudiate a Finance Document.

23.13 **Change of Control**

If CEMEX, S.A.B. de C.V. ceases to:

(a) be entitled to (whether by way of ownership of shares, proxy, contract, agency or otherwise):

(i) cast, or control the casting of, at least 51 per cent. of the maximum number of votes that might be cast at a general meeting of the Borrower;

(ii) appoint or remove all, or the majority, of the directors or other equivalent officers of the Borrower;

(iii) give directions with respect to the operating and financial policies of the Borrower which the directors or other equivalent officers of the Borrower are obliged to comply with; or

(b) hold at least 51 per cent. of the common shares in the Borrower.

23.14 **Material adverse change**

Any material adverse change arises in the financial condition of the Group taken as a whole which the Majority Lenders reasonably determine would result in the failure by any Obligor to perform its payment obligations under any of the Finance Documents.

23.15 **Acceleration**

On and at any time after the occurrence of an Event of Default the Agent may, and shall if so directed by the Majority Lenders, by notice to the Borrower:

(a) cancel the Total Commitments whereupon they shall immediately be cancelled;

(b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or

(c) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders.

SECTION 9
CHANGES TO PARTIES

24. CHANGES TO THE LENDERS

24.1 Assignments and transfers by the Lenders

Subject to this Clause 24, a Lender (the "**Existing Lender**") may:

(a) assign any of its rights; or

(b) transfer by novation any of its rights and obligations,

to another bank or financial institution or to a securitisation trust or fund or (subject to paragraph (a) of Clause 24.2 (*Conditions of assignment or transfer*) other entity (the "**New Lender**") provided that any assignment or transfer in respect of Facility A, Facility C1 or Facility C2 by a Lender having participations in each of Facility A, Facility C1 and Facility C2 shall be made proportionally as between Facility A, Facility C1 and Facility C2.

24.2 Conditions of assignment or transfer

(a) The consent of the Borrower is required for an assignment or transfer to an entity which is not a bank or financial institution or a securitisation trust or fund.

(b) The consent of the Borrower to an assignment or transfer must not be unreasonably withheld or delayed. The Borrower will be deemed to have given its consent five Business Days after the Existing Lender has requested it unless consent is expressly refused by the Borrower within that time.

(c) An assignment will only be effective on:

(i) receipt by the Agent of written confirmation from the New Lender that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it was an Original Lender; and

(ii) performance by the Agent of all checks relating to any person that it is required to carry out pursuant to any laws or regulations relating to money laundering in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender.

(d) A transfer will only be effective if the procedure set out in Clause 24.5 (*Procedure for transfer*) is complied with.

(e) If:

(i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and

(ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 13 (*Tax gross-up and indemnities*) or Clause 14 (*Increased costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

24.3 **Assignment or transfer fee**

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of EUR 2,000.

24.4 **Limitation of responsibility of Existing Lenders**

(a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

(i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;

(ii) the financial condition of any Obligor;

(iii) the performance and observance by any Obligor of its obligations under the Finance Documents or any other documents; or

(iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law or regulation are excluded.

(b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:

(i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and

(ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

(c) Nothing in any Finance Document obliges an Existing Lender to:

(i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause 24; or

(ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

24.5 **Procedure for transfer**

(a) Subject to the conditions set out in Clause 24.2 (*Conditions of assignment or transfer*) a transfer is effected on the Transfer Date in accordance with paragraph (b) below provided that a duly completed Transfer Certificate is delivered to the Agent by the Existing Lender and the New Lender at least five Business Days prior to the Transfer Date.

(b) On the Transfer Date:

(i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the "**Discharged Rights and Obligations**");

(ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

(iii) the Agent, the Arranger, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Arranger and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and

(iv) the New Lender shall become a Party as a **"Lender"**.

24.6 **Copy of Transfer Certificate to Borrower**

The Agent shall, as soon as reasonably practicable after it has received a Transfer Certificate, send to the Borrower a copy of that Transfer Certificate.

24.7 **Disclosure of information**

Any Lender may disclose to any of its Affiliates and any other person:

(a) to (or through) whom that Lender assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under this Agreement;

(b) with (or through) whom that Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, this Agreement or any Obligor; or

(c) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation,

any information about any Obligor, the Group and the Finance Documents as that Lender shall consider appropriate if, in relation to paragraphs (a) and (b) above, the person to whom the information is to be given has entered into a Confidentiality Undertaking.

24.8 **Interest**

All interest accrued in the Interest Period in which a transfer is effective shall be paid to the Existing Lender.

25. CHANGES TO THE OBLIGORS

25.1 Assignments and transfers by Obligors

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

25.2 Additional Guarantors

(a) The Borrower shall procure that, in respect of (i) each of its Subsidiaries to whom a sale, lease, transfer or other disposal is made by an Obligor pursuant to paragraph (b) (iii) (A) of Clause 22.7 (*Disposals*); (ii) each of its Subsidiaries which is or which is deemed to be a Material Subsidiary, whether pursuant to paragraph (b) (iii) (B) of Clause 22.7 (*Disposals*) or otherwise; or (iii) each person whom the Borrower elects to procure to become a Guarantor pursuant to Clause 22.15 (*Payment restrictions affecting Subsidiaries*), such Subsidiary or the Holding Company of such Material Subsidiary or such person respectively become an Additional Guarantor (unless such Subsidiary or such Material Subsidiary (in the case of (i) and (ii) respectively) is already a Guarantor) by:

(A) the Borrower delivering to the Agent a duly-completed and executed Accession Letter; and

(B) the Agent receiving from the Borrower all of the documents and other evidence referred listed in Part II of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Guarantor*) in relation to that Additional Guarantor.

(b) The Agent shall notify the Guarantors and the Lenders promptly upon being satisfied that it has received all the documents and other evidence listed in Part II of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Guarantor*).

(c) For the purposes of this Clause 25.2 only, a "Holding Company" means, in relation to a Material Subsidiary, any company or corporation in respect of which it is a Subsidiary and which is not in turn a Subsidiary of a Holding Company (as defined in Clause 1.1 (*Definitions*)).

25.3 Resignation of Guarantor

A Guarantor (a "**Resigning Guarantor**") will cease to be a Guarantor if:

(a) it makes a sale, lease, transfer or other disposal of all or substantially all (but not a part only) of its assets to another member of the Group which is or becomes a Guarantor in accordance with paragraph (a) (i) of Clause 25.2 (*Additional Guarantors*); or

(b) its Holding Company becomes a Guarantor,

provided that such Resigning Guarantor also, if applicable, ceases concurrently to be a guarantor in respect of any other indebtedness of the Group or of any member of the Group and **provided further that** such Resigning Guarantor notifies the Agent of any sale, lease, transfer or other disposal in accordance with paragraph (a) of this Clause 25.3.

25.4 **Removal of Guarantor**

(a) In the event that the Borrower delivers to the Agent a certificate (" **Guarantor Removal Certificate**") signed by two authorised signatories of the Borrower confirming that (as at the date of the Guarantor Removal Certificate) a substantial part of the Net Borrowings of the Group:

(i) is guaranteed only by the Borrower and/or any other guarantors which are not Guarantors (whether, for the avoidance of doubt, as a result of the repayment, redemption, maturity or cancellation of any Financial Indebtedness, or any agreement with any creditor of the Group or as a result of any other reason); and/or

(ii) (A) is subject to provisions in any agreements or documents (including this Agreement) with any creditor of the Group (or any other party) relating to any Financial Indebtedness of the Group, which allow for the removal of all or any of the Guarantors as guarantors pursuant to such agreements or documents (other than the Borrower, such that the only remaining guarantors of such Financial Indebtedness would in each case be the Borrower and/or any other guarantors which are not Guarantors), and (B) the conditions (if any) to such removal pursuant to such agreements or documents have been met by the relevant Guarantor, and (C) any or all of the relevant Guarantors (other than the Borrower) has or have been removed (or will be so removed at a date which is not later than the date scheduled for removal of the relevant Guarantor pursuant to the relevant Guarantor Removal Certificate) as guarantors of the relevant Financial Indebtedness pursuant to such agreements or other documents,

the obligations of the relevant Guarantor(s) (other than the Borrower) under the guarantee and indemnity contained in Clause 18 (*Guarantee and Indemnity*) shall terminate and such Guarantor(s) shall be deemed to be discharged in full, and shall cease to be Guarantor(s), effective as at the date indicated in the Guarantor Removal Certificate, which date shall not be earlier than 10 days of receipt by the Agent of the Guarantor Removal Certificate, **provided always that** any such termination and discharge pursuant to this Clause 25.4 would not result in a downgrading of the then current Rating of the Borrower assigned by S&P or Fitch Investors Service, Inc.

(b) For the purposes of this Clause 25.4, a "**substantial part**" shall mean an aggregate amount equal or greater than 85 per cent of the aggregate value of the Net Borrowings of the Group.

The "**Net Borrowings**" of the Group referred to in this Clause shall be determined by reference to the most recent Compliance Certificate delivered to the Agent pursuant to Clause 20.2 (*Compliance Certificate)* at the date of the relevant Guarantor Removal Certificate.

(c) For the avoidance of doubt, the Guarantor Removal Certificate shall also:

(i) specify the percentage of the Net Borrowings of the Group which is guaranteed only by the Borrower and/or any other guarantors which are not Guarantors;

(ii) specify the percentage of the Net Borrowings of the Group which is subject to provisions in agreements or documents which allow for the removal of the Guarantors (other than the Borrower);

(iii) certify that the conditions (if any) to the removal of such Guarantors in such agreements or documents have been met by the relevant member of the Group as at the date of the Guarantor Removal Certificate;

(iv) certify that the relevant Guarantor(s) has or have been removed (or will be so removed at a date which is not later than the date scheduled for removal of the relevant Guarantor pursuant to the relevant Guarantor Removal Certificate) as Guarantor(s) of the relevant Financial Indebtedness; and

(v) confirm that neither S&P nor Fitch Investors Service, Inc will downgrade the then current Rating assigned to the Borrower as a result of the removal of the relevant Guarantor(s) as Guarantor(s) under this Agreement.

(d) Following delivery of the Guarantor Removal Certificate to the Agent, the Borrower shall provide notice of the removal, and termination of the obligations of the Guarantors (other than the Borrower) to the Finance Parties, in accordance with Clause 31 (*Notices*) of the Agreement.

25.5 **Repetition of Representations**

Delivery of an Accession Letter constitutes confirmation by the relevant Affiliate that the Repeating Representations are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

SECTION 10
THE FINANCE PARTIES

26. ROLE OF THE AGENT AND THE ARRANGER

26.1 Appointment of the Agent

(a) Each other Finance Party appoints the Agent to act as its agent under and in connection with the Finance Documents.

(b) Each other Finance Party authorises the Agent to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

26.2 Duties of the Agent

(a) The Agent shall promptly forward to a Party the original or a copy of any document (including, but not limited to, the Borrower's annual financial statements) which is delivered to the Agent for that Party by any other Party.

(b) The Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(c) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.

(d) If the Agent is aware of the non-payment of any principal, interest or fee payable to a Finance Party (other than the Agent or the Arranger) under this Agreement it shall promptly notify the other Finance Parties.

(e) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

26.3 Role of the Arranger

Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

26.4 No fiduciary duties

(a) Nothing in this Agreement constitutes the Agent or the Arranger as a trustee or fiduciary of any other person.

(b) Neither the Agent nor the Arranger shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

26.5 Business with the Group

The Agent and the Arranger may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

26.6 **Rights and discretions of the Agent**

(a) The Agent may rely on:

(i) any representation, notice or document (including, for the avoidance of doubt, any representation, notice or document communicating the consent of the Majority Lenders pursuant to Clause 35.1 (*Required consents*) believed by it to be genuine, correct and appropriately authorised; and

(ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

(b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:

(i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 23.1 (*Non-payment*));

(ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and

(iii) any notice or request made by the Borrower (other than a Utilisation Request or Selection Notice) is made on behalf of and with the consent and knowledge of the Guarantor.

(c) The Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.

(d) The Agent may act in relation to the Finance Documents through its personnel and agents.

(e) The Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.

(f) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Arranger is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law and regulation or a breach of a fiduciary duty or duty of confidentiality.

26.7 **Majority Lenders' instructions**

(a) Unless a contrary indication appears in a Finance Document, the Agent shall (i) exercise any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by the Majority Lenders (or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders.

(b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders will be binding on all the Finance Parties.

(c) The Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders) until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.

(d) In the absence of instructions from the Majority Lenders, (or, if appropriate, the Lenders) the Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.

(e) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.

26.8 **Responsibility for documentation**

Neither the Agent nor the Arranger:

(a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Agent, the Arranger, an Obligor or any other person given in or in connection with any Finance Document or the Information Memorandum; or

(b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document.

26.9 **Exclusion of liability**

(a) Without limiting paragraph (b) below, the Agent will not be liable for any action taken by it under or in connection with any Finance Document, unless directly caused by its wilful misconduct.

(b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Agent may rely on this Clause 26.

(c) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.

(d) Nothing in this Agreement shall oblige the Agent or the Arranger to carry out any checks pursuant to any laws or regulations relating to money laundering in relation to any person on behalf of any Lender and each Lender confirms to the Agent and the Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Arranger.

26.10 **Lenders' indemnity to the Agent**

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by an Obligor pursuant to a Finance Document).

26.11 **Resignation of the Agent**

(a) The Agent may resign and appoint one of its Affiliates acting through an office in the European Union as successor by giving notice to the other Finance Parties and the Borrower.

(b) Alternatively the Agent may resign by giving notice to the other Finance Parties and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Agent.

(c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the Agent (after consultation with the Borrower) may appoint a successor Agent (acting through an office in the European Union).

(d) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.

(e) The Agent's resignation notice shall only take effect upon the appointment of a successor.

(f) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 26. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

(g) After consultation with the Borrower, the Majority Lenders may, by notice to the Agent, require it to resign in accordance with paragraph (b) above. In this event, the Agent shall resign in accordance with paragraph (b) above.

26.12 **Confidentiality**

(a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.

26.13 **Relationship with the Lenders**

(a) The Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five Business Days prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

(b) Each Lender shall supply the Agent with any information required by the Agent in accordance with Schedule 4 (*Mandatory Cost Formulae*).

26.14 **Credit appraisal by the Lenders**

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Agent and the Arranger that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

(a) the financial condition, status and nature of each member of the Group;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

(c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and

(d) the adequacy, accuracy and/or completeness of the Information Memorandum and any other information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.

26.15 **Agent's Management Time**

Any amount payable to the Agent under Clause 15.3 (*Indemnity to the Agent*), Clause 17 (*Costs and expenses*) and Clause 26.10 (*Lenders' indemnity to the Agent*) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Borrower and the Lenders, and is in addition to any fee paid or payable to the Agent under Clause 12 (*Fees*).

26.16 **Deduction from amounts payable by the Agent**

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

27. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

(a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;

(b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or

(c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

28. SHARING AMONG THE FINANCE PARTIES

28.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from an Obligor (except pursuant to Clause 2.2 (*Redenomination of Facility C1 and Facility C2*) other than in accordance with Clause 29 (*Payment mechanics*) (whether by set-off or otherwise) and applies that amount to a payment due under the Finance Documents then:

(a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;

(b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 29 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and

(c) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the " **Sharing Payment**") equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 29.5 (*Partial payments*).

28.2 Redistribution of payments

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) in accordance with Clause 29.5 (*Partial payments*).

28.3 Recovering Finance Party's rights

(a) On a distribution by the Agent under Clause 28.2 (*Redistribution of payments*), the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in the redistribution.

(b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the relevant Obligor shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

28.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

(a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 28.2 (*Redistribution of payments*) shall, upon request of the Agent, pay to the Agent for account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay); and

(b) that Recovering Finance Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Finance Party for the amount so reimbursed.

28.5 **Exceptions**

(a) This Clause 28 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.

(b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

(i) it notified that other Finance Party of the legal or arbitration proceedings; and

(ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

SECTION 11
ADMINISTRATION

29. PAYMENT MECHANICS

29.1 Payments to the Agent

(a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payments by Obligors or Lenders shall be made to such account in New York (in relation to dollars) or a principal financial centre in a Participating Member State or London (in relation to euro) with such bank as the Agent specifies.

29.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 29.3 (*Distributions to an Obligor*), Clause 29.4 (*Clawback*) and Clause 26.16 (*Deduction from amounts payable by the Agent*) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank in New York (in relation to dollars) or the principal financial centre of a Participating Member State or London (in relation to euro).

29.3 Distributions to an Obligor

The Agent may (with the consent of the Obligor or in accordance with Clause 30 (*Set-off*) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

29.4 Clawback

(a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

(b) If the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

29.5 Partial payments

(a) If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor under the Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:

(i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of the Agent and the Arranger under the Finance Documents;

(ii) **secondly**, in or towards payment pro rata of any accrued interest, fee or commission due but unpaid under this Agreement;

(iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under this Agreement; and

(iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

(b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.

(c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

29.6 **No set-off by Obligors**

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

29.7 **Business Days**

(a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

29.8 **Currency of account**

(a) Subject to paragraphs (b) to (e) below, the Base Currency (in the case of Facility A, Facility B and Facility C1) and dollars (in the case of Facility C2) is the currency of account and payment for any sum due from an Obligor under any Finance Document.

(b) A repayment of a Loan or Unpaid Sum or a part of a Loan or Unpaid Sum shall be made in the currency in which that Loan or Unpaid Sum is denominated on its due date.

(c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

(d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

(e) Any amount expressed to be payable in a currency other than the Base Currency (in respect of Facility A, Facility B and Facility C1) or dollars (in respect of Facility C2) shall be paid in that other currency.

29.9 **Change of currency**

(a) Unless otherwise prohibited by law or regulation, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrower); and

(ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other.

(b) If a change in any currency of a country occurs, this Agreement will be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

30. **SET-OFF**

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

31. **NOTICES**

31.1 **Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

31.2 **Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

(a) in the case of the Borrower, that identified with its name below;

(b) in the case of each Lender or any other Obligor, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and

(c) in the case of the Agent, that identified with its name below,

or any substitute address or fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

31.3 **Delivery**

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(i) if by way of fax, when received in legible form; or

(ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 31.2 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's signature below (or any substitute department or officer as the Agent shall specify for this purpose).

(c) All notices from or to an Obligor shall be sent through the Agent.

(d) Any communication or document made or delivered to the Borrower in accordance with this Clause will be deemed to have been made or delivered to the Guarantor.

31.4 **Notification of address and fax number**

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 31.2 (*Addresses*) or changing its own address or fax number, the Agent shall notify the other Parties.

31.5 **English language**

(a) Any notice given under or in connection with any Finance Document must be in English.

(b) All other documents provided under or in connection with any Finance Document must be:

(i) in English; or

(ii) if not in English or Spanish, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

32. CALCULATIONS AND CERTIFICATES

32.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

32.2 Certificates and Determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

32.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

32.4 Spanish Civil Procedure

In the event that this Agreement is raised to a Spanish Public Document, for the purposes of Article 572.2 of the Spanish Civil Procedure Law (*Ley de Enjuiciamiento Civil*), all parties expressly agree that the exact amount due at any time by the Obligors to the Lenders will be the amount specified in a certificate issued by the Agent (and/or any Lender) in accordance with Clause 32.2 (*Certificates and Determinations*) as representative of the Lenders reflecting the balance of the accounts referred to in Clause 32.1 (*Accounts*).

33. PARTIAL INVALIDITY

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the laws and regulations of any other jurisdiction will in any way be affected or impaired.

34. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law or regulation.

35. AMENDMENTS AND WAIVERS

35.1 Required consents

(a) Subject to Clause 35.2 (*Exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Obligors and any such amendment or waiver will be binding on all Parties.

(b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause.

35.2 **Exceptions**

(a) An amendment or waiver that has the effect of changing or which relates to:

(i) the definition of "Majority Lenders" in Clause 1.1 (*Definitions*);

(ii) an extension to the Availability Period or to the date of payment of any amount under the Finance Documents;

(iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest or fees;

(iv) an increase in or an extension of any Commitment;

(v) a change to the Borrower or any of the Guarantors;

(vi) any provision which expressly requires the consent of all the Lenders; or

(vii) Clause 2.3 (*Finance Parties' rights and obligations*), Clause 18 (*Guarantee and Indemnity*), Clause 24 (*Changes to the Lenders*), Clause 25 (*Changes to the Obligors*) or this Clause 35; or

(viii) a change in the definition of Optional Currencies.

shall not be made without the prior consent of all the Lenders.

(b) An amendment or waiver which relates to the rights or obligations of the Agent or the Arranger may not be effected without the consent of the Agent or the Arranger.

36. **COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

SECTION 12
GOVERNING LAW AND ENFORCEMENT

37. **GOVERNING LAW**

37.1 This Agreement is governed by English law.

37.2 If any of the Original Guarantors is represented by an attorney or attorneys in connection with the signing and/or execution and/or delivery of this Agreement or any agreement or document referred to herein or made pursuant hereto and the relevant power or powers of attorney is or are expressed to be governed by the laws and regulations of a particular jurisdiction, it is hereby expressly acknowledged and accepted by the other parties hereto that such laws and regulations shall govern the existence and extent of such attorney's or attorneys' authority and the effects of the exercise thereof.

38. **ENFORCEMENT**

38.1 **Jurisdiction**

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (a "**Dispute**").

(b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) This Clause 38.1 is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law and regulation, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

38.2 **Service of process**

Without prejudice to any other mode of service allowed under any relevant law or regulation, each Obligor (other than an Obligor incorporated in England and Wales):

(a) irrevocably appoints Clifford Chance Secretaries Limited as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and

(b) agrees that failure by a process agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1
THE ORIGINAL PARTIES

Part I
The Obligors

Name of Borrower	**Registration number (or equivalent, if any)**
Cemex España, S.A.	**Nº Hoja-Registro Mercantil, Madrid:** M- 156542 **NIF:** A46/004214

Name of Guarantor	**Registration number (or equivalent, if any)**
	Trade Register of the Chamber of Commerce and Industry in Amsterdam (The Netherlands)
Cemex Caracas Investments B.V.[1]	34121194
Cemex Caracas II Investments B.V.[2]	34159953
Cemex Egyptian Investments B.V.[3]	34108365
Cemex Manila Investments B.V.[4]	34108359
Sandworth Plaza Holding B.V.[5]	33234378

[1] Cemex American Holdings B.V., Cemex Shipping B.V., Cemex Asia B.V. and Cemex Caracas Investments B.V. have retired as Guarantors.
[2] Retired as Guarantor.
[3] Retired as Guarantor.
[4] Retired as Guarantor.
[5] Retired as Guarantor.

Part II
The Original Lenders as at the Effective Date

Name of Original Lender	Facility C1 Commitment (yen)[1]	Facility C2 Commitment (yen)[2]
Banco Bilbao Vizcaya Argentaria, S.A.	2,920,782,887.00	
Société Générale, S.A.	2,368,202,341.00	
Banco Español do Crédito S.A.	2,970,778,269.00	
Banco Santander Central Hispano, S.A.	1,918,243,896.00	
BNP Paribas, Sucursal en España	1,918,243,896.00	
Citibank International plc, Sucursal en España		865,709,523.00
HSBC Bank PLC, Sucursal en España	1,918,243,896.00	
ING Belgium S.A., Sucursal en España	1,918,243,896.00	
The Royal Bank of Scotland PLC	1,918,243,896.00	
Fortis Bank, S.A., Sucursal en España	591,307,500.00	
TOTALS	**18,442,290,477.00**	**865,709,523.00**

[1] To be converted into euro on the Redenomination Date.
[2] To be converted into dollars on the Redenomination Date.

SCHEDULE 2
CONDITIONS PRECEDENT

Part I
Conditions Precedent to initial Utilisation

1. **Obligors**

(a) A copy of the constitutional documents of each Obligor.

(a) A power of attorney granting a specific individual or individuals sufficient power to sign the Finance Documents on behalf of the Borrower and a copy of a resolution of the board of directors of each Original Guarantor:

(i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;

(ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and

(iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.

(b) A specimen of the signature of each person authorised by the resolution or power of attorney referred to in paragraph (b) above.

(c) A certificate of each of the Obligors (signed by an Authorised Signatory) confirming that borrowing or guaranteeing, as appropriate, the Total Commitments would not cause any borrowing, guarantee or similar limit binding on any Obligor to be exceeded.

(d) A certificate of an Authorised Signatory of the relevant Obligor certifying that each copy document relating to it specified in this Part I of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

2. Legal opinions

(a) An opinion with respect to the laws and regulations of England from Clifford Chance, substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(b) An opinion with respect to the laws and regulations of the Kingdom of Spain from Clifford Chance, substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(c) An opinion with respect to the laws and regulations of The Netherlands from Clifford Chance, substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(d) An opinion from in-house counsel of the Borrower, substantially in the form distributed to the Original Lenders prior to signing the Agreement.

3. Other documents and evidence

(a) Evidence that any process agent referred to in Clause 38.2 (*Service of process*) has accepted its appointment.

(b) The Original Financial Statements of each Obligor.

(c) A copy of form PE-1 stamped by the Bank of Spain (*Banco de España*), whereby it assigns a Financial Operation Number ("NOF") to the Facility.

Part II
Conditions Precedent required to be delivered by an Additional Guarantor

1. **Obligors**

(a) An Accession Letter, duly executed by the Additional Guarantor and the Borrower.

(b) A copy of the constitutional documents of the Additional Guarantor.

(c) A copy of a resolution of the board of directors of the Additional Guarantor:

(i) approving the terms of, and the transactions contemplated by, the Accession Letter and this Agreement and resolving that it execute the Accession Letter;

(ii) authorising a specified person or persons to execute the Accession Letter on its behalf; and

(iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with this Agreement.

(d) A specimen of the signature of each person authorised by the resolution referred to in paragraph (c) above.

(e) Should the legal advisers of the Lenders consider it advisable, a copy of a resolution signed by all the holders of the issued shares of the Additional Guarantor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Guarantor is a party.

(f) A certificate of the Additional Guarantor (signed by an Authorised Signatory) confirming that guaranteeing the Total Commitments would not cause any guaranteeing or similar limit binding on it to be exceeded.

(g) A certificate of an Authorised Signatory of the Additional Guarantor certifying that each copy document listed in this Part II of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of the Accession Letter.

2. **Legal opinion**

(a) A legal opinion of the legal advisers to the Additional Guarantor in form and substance reasonably satisfactory to the legal advisers of the Lenders.

(b) A legal opinion of Clifford Chance, or other firm that can opine for the Additional Guarantor if not Clifford Chance, legal advisers to the Lenders.

3. **Other documents and evidence**

(a) Evidence that any process agent referred to in Clause 38.2 (*Service of process*) has accepted its appointment.

(b) A copy of any other Authorisation or other document, opinion or assurance which the Agent considers (after having taken appropriate legal advice) to be necessary or desirable (if it has notified the Additional Guarantor and the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

(c) The Original Financial Statements of the Additional Guarantor.

SCHEDULE 3
REQUESTS

Part I
Utilisation Request

From: Cemex España, S.A.

To: Banco Bilbao Vizcaya Argentaria, S.A.

Dated:

Dear Sirs

Cemex España, S.A. – EUR 250,000,000 and ¥ 19,308,000,000 Facilities Agreement dated 30 March 2004 (as amended) (the "Agreement")

1. We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.

2. We wish to borrow a Loan on the following terms:

Proposed Utilisation Date:	[ ] (or, if that is not a Business Day, the next Business Day)
Facility to be utilised:	[Facility A]/[Facility B]/[Facility C1]/[Facility C2]*
Currency of Loan:	[ ]
Amount:	[ ] or, if less, the Available Facility
Interest Period:	[ ]

3. We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) is satisfied on the date of this Utilisation Request.

4. The proceeds of this Loan should be credited to [*account*].

5. This Utilisation Request is irrevocable.

Yours faithfully

_____

authorised signatory for
Cemex España, S.A.

* delete as appropriate

Part II
Selection Notice

Applicable to the Facility A Loan

From: Cemex España, S.A.

To: Banco Bilbao Vizcaya Argentaria, S.A.

Dated:

Dear Sirs

Cemex España, S.A. – EUR 250,000,000 and ¥ 19,308,000,000 Facilities Agreement dated 30 March 2004 (as amended) (the "Agreement")

1. We refer to the Agreement. This is a Selection Notice. Terms defined in the Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.

2. We refer to the Facility A Loan in [*identify currency*] with an Interest Period ending on [ ]*.

3. We request that the next Interest Period for the Facility A Loan is [ ].

4. We request that the Facility A Loan is [denominated in the same currency for the next Interest Period]/[denominated in the following currencies: [ ]. As this results in a change of currency we confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) is satisfied on the date of this Selection Notice. The proceeds of any change in currency should be credited to [*account*].] .

5. This Selection Notice is irrevocable.

Yours faithfully

authorised signatory for
Cemex España, S.A.

* Insert details of the Facility A Loan.

SCHEDULE 4
MANDATORY COST FORMULAE

1. The Mandatory Cost is an addition to the interest rate to compensate Lenders for the cost of compliance with (a) the requirements of the Financial Services Authority (or any other authority which replaces all or any of its functions) or (b) the requirements of the European Central Bank.

2. On the first day of each Interest Period (or as soon as possible thereafter) each Lender shall calculate, as a percentage rate, a rate (the " **Additional Cost Rate**"), in accordance with the paragraphs set out below. The Mandatory Cost will be a weighted average of the Lenders' Additional Cost Rates (weighted in proportion to the percentage participation of each Lender in the relevant Loan) and will be expressed as a percentage rate per annum.

3. The Additional Cost Rate for any Lender lending from a Facility Office in a Participating Member State will be the percentage notified by that Lender to the Agent. This percentage will be certified by that Lender in its notice to the Agent to be its reasonable determination of the cost (expressed as a percentage of that Lender's participation in all Loans made from that Facility Office) of complying with the minimum reserve requirements of the European Central Bank in respect of loans made from that Facility Office.

4. The Additional Cost Rate for any Lender lending from a Facility Office in the United Kingdom will be calculated by the relevant Lender as follows:

$$\frac{E \times 0.01}{300} \text{ per cent. per annum.}$$

Where:

E is designed to compensate Lenders for amounts payable under the Fees Rules and is calculated by the relevant Lender as being the average of the most recent rates of charge supplied by the Reference Banks to the relevant Lender pursuant to paragraph 6 below and expressed in pounds per £1,000,000.

5. For the purposes of this Schedule:

(a) "**Fees Rules**" means the rules on periodic fees contained in the FSA Supervision Manual or such other law or regulation as may be in force from time to time in respect of the payment of fees for the acceptance of deposits;

(b) "**Fee Tariffs**" means the fee tariffs specified in the Fees Rules under the activity group A.1 Deposit acceptors (ignoring any minimum fee or zero rated fee required pursuant to the Fees Rules but taking into account any applicable discount rate); and

(c) "**Tariff Base**" has the meaning given to it in, and will be calculated in accordance with, the Fees Rules.

6. If requested by a Lender, each Reference Bank shall, as soon as practicable after publication by the Financial Services Authority, supply to such Lender, the rate of charge payable by that Reference Bank to the Financial Services Authority pursuant to the Fees Rules in respect of the relevant financial year of the Financial Services Authority (calculated for this purpose by that Reference Bank as being the average of the Fee Tariffs applicable to that Reference Bank for that financial year) and expressed in pounds per £1,000,000 of the Tariff Base of that Reference Bank.

7. The rates of charge of each Reference Bank for the purpose of E above shall be determined by the relevant Lender based upon the information supplied to it pursuant to paragraph 6 above.

8. The Agent shall have no liability to any person if such determination results in an Additional Cost Rate which over or under compensates any Lender and shall be entitled to assume that the information provided by any Lender or Reference Bank pursuant to paragraphs 3 and 6 above is true and correct in all respects.

9. The Agent shall distribute the additional amounts received as a result of the Mandatory Cost to the Lenders on the basis of the Additional Cost Rate for each Lender based on the information provided by each Lender and each Reference Bank pursuant to paragraphs 3 and 6 above.

10. Any determination by a Lender pursuant to this Schedule in relation to a formula, the Mandatory Cost, an Additional Cost Rate or any amount payable to a Lender shall, in the absence of manifest error, be conclusive and binding on all Parties.

11. The Agent may from time to time, if so requested by any Lender, notify to all Parties any amendments which are required by such Lender to be made to this Schedule in order to comply with any change in law or regulation or any requirements from time to time imposed by the Financial Services Authority or the European Central Bank (or, in any case, any other authority which replaces all or any of its functions).

SCHEDULE 5
FORM OF TRANSFER CERTIFICATE

To: Banco Bilbao Vizcaya Argentaria, S.A. as Agent

From: [*The Existing Lender*] (the "**Existing Lender**") and [*The New Lender*] (the "**New Lender**")

Dated:

Cemex España, S.A. – EUR 250,000,000 and ¥ 19,308,000,000 Facilities Agreement dated 30 March 2004 (as amended) (the "Agreement")

1. We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.

2. We refer to Clause 24.5 (*Procedure for transfer*):

   (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation all or part of the Existing Lender's Commitment, rights and obligations referred to in the Schedule in accordance with Clause 24.5 (*Procedure for transfer*).

   (b) The proposed Transfer Date is [ ].

   (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 31.2 (*Addresses*) are set out in the Schedule.

3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 24.4 (*Limitation of responsibility of Existing Lenders*).

4. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.

5. This Transfer Certificate is governed by English law.

THE SCHEDULE

Commitment/rights and obligations to be transferred

[*insert relevant details*]
[*Facility Office address, fax number and attention details for notices and account details for payments,*]

[Existing Lender]	[New Lender]
By:	By:

SCHEDULE 6
FORM OF COMPLIANCE CERTIFICATE

To: Banco Bilbao Vizcaya Argentaria, S.A. as Agent

From: Cemex España, S.A.

Dated:

Dear Sirs

Cemex España, S.A. – EUR 250,000,000 and ¥ 19,308,000,000 Facilities Agreement dated 30 March 2004 (as amended) (the "Agreement")

1. We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2. We confirm that:

   (a) Pursuant to Clause 21.2 (*Financial condition*) the financial condition of the Group as of [ ] evidenced by the consolidated financial statements for the financial year/first half/second half of the financial year then ended comply with the following conditions:

   (i) **Net Borrowings** **EUR** ("**A**")

   comprising EUR [*Guarantees*]

   EUR [*Off-Balance-Sheet Transactions*]

   EUR [*Financial Indebtedness*]

   EUR [*Liquid Investments*]

   Adjusted EBITDA

   comprising:

   EUR *[operating profit*]

   EUR [*annual depreciation for fixed assets]*

   EUR [*annual amortisation of intangible assets]*

   EUR [*annual amortisation of start-up costs of the Group*]

   EUR [*dividends received from non-consolidated companies*]

   EUR [*dividends received from companies consolidated by the equity method]*

EUR [*Cemex Capital Contributions*]

EUR [*acquired business (i) operating income and (ii) depreciation and amortisation expense]*

EUR ("**B**")

A:B to be less than or equal to 3.5:1

(ii) **EBITDA** EUR ("B")

Finance Charges

comprising EUR [*interest expenses*]

EUR [*other expenses*]

EUR ("**C**")

B:C to be greater than or equal to 3:1

(b) As at the date of this Certificate the following Subsidiaries of the Group fall within the definition of Material Subsidiaries as set out in Clause 1.1 (*Definitions*):

3. We confirm that no Default is continuing.

Signed:

Authorised Signatory
of
Cemex España, S.A.

[*insert applicable certification language*]

for and on behalf of
[*name of auditors of the Borrower*]

SCHEDULE 7
EXISTING SECURITY

Company	Lender	Security	Total Principal Amount of Indebtedness Secured as of 31 December 2003 (millions of euro)
CEMEX Construction Materials, L.P.	Navistar Financial	Equipment related with the Credit	1.08
CEMEX Construction Materials, L.P.	GE Capital 7964, 8069	Equipment related with the Credit	0.93
CEMEX Construction Materials, L.P.	City of Long Beach	Cement Terminal (Capital Lease Obligation)	7.77
CEMEX Construction Materials, L.P.	Hampton	Land related with the Credit	0.25
CEMEX Construction Materials, L.P.	RIO	Land related with the credit	3.97
CEMEX Construction Materials, L.P.	Met-South, Inc.	Ash storage facility	0.18
			14.18

SCHEDULE 8
EXISTING NOTARISATIONS

Type of Agreement	Borrower/Guarantor	Maturity Date	Total Principal Amount of Indebtedness notarised as of 31 December 2003
Bilateral lines	Cemex España S.A./n.a.	Between Jan. 2004 and Dec. 2005	EUR55,593,620 (1) (2)
Deferred purchase price	Aricemex S.A./n.a.	July, 2005	EUR 961,619
5-year term loan	Cementos Diamante/ Cemex España S.A.	October 19th, 2004	US$ 37,172,250

(1) Corresponds to the total committed amount under the facilities. Amount drawn as of 12.31.03: EUR 25,897,210
(2) EUR 4,507,591 matured in January 14, 2004.

SCHEDULE 9
LMA FORM OF CONFIDENTIALITY UNDERTAKING

[Letterhead of Seller/Seller's agent/broker]

To:

[insert name of Potential
Purchaser/Purchaser's agent/broker]

Re: The Agreement

Borrower:

Date:

Amount:

Agent:

Dear Sirs

We understand that you are considering [acquiring]/[arranging the acquisition of] an interest in the Agreement (the "Acquisition"). In consideration of us agreeing to make available to you certain information, by your signature of a copy of this letter you agree as follows:

1. Confidentiality Undertaking

You undertake (a) to keep the Confidential Information confidential and not to disclose it to anyone except as provided for by paragraph 2 below and to ensure that the Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information, (b) to use the Confidential Information only for the Permitted Purpose, (c) to use all reasonable endeavours to ensure that any person to whom you pass any Confidential Information (unless disclosed under paragraph 2[(c)/(d)] below) acknowledges and complies with the provisions of this letter as if that person were also a party to it, and (d) not to make enquiries of any member of the Group or any of their officers, directors, employees or professional advisers relating directly or indirectly to the Acquisition.

2. Permitted Disclosure

We agree that you may disclose Confidential Information:

(a) to members of the Purchaser Group and their officers, directors, employees and professional advisers to the extent necessary for the Permitted Purpose and to any auditors of members of the Purchaser Group;

(b) [subject to the requirements of the Agreement, in accordance with the Permitted Purpose so long as any prospective purchaser has delivered a letter to you in equivalent form to this letter;]

[(b/c)] subject to the requirements of the Agreement, to any person to (or through) whom you assign or transfer (or may potentially assign or transfer) all or any of the rights, benefits and obligations which you may acquire under the Agreement or with (or through) whom you enter into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, the Agreement or the Borrower or any member of the Group in each case so long as that person has delivered a letter to you in equivalent form to this letter; and

[(c/d)] (i) where requested or required by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body, (ii) where required by the rules of any stock exchange on which the shares or other securities of any member of the Purchaser Group are listed or (iii) where required by the laws or regulations of any country with jurisdiction over the affairs of any member of the Purchaser Group.

3. Notification of Required or Unauthorised Disclosure

You agree (to the extent permitted by law) to inform us of the full circumstances of any disclosure under paragraph 2[(c)/(d)] or upon becoming aware that Confidential Information has been disclosed in breach of this letter.

4. Return of Copies

If we so request in writing, you shall return all Confidential Information supplied to you by us and destroy or permanently erase all copies of Confidential Information made by you and use all reasonable endeavours to ensure that anyone to whom you have supplied any Confidential Information destroys or permanently erases such Confidential Information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy, or where the Confidential Information has been disclosed under paragraph 2[(c)/(d)] above.

5. Continuing Obligations

The obligations in this letter are continuing and, in particular, shall survive the termination of any discussions or negotiations between you and us. Notwithstanding the previous sentence, the obligations in this letter shall cease (a) if you become a party to or otherwise acquire (by assignment or sub-participation) an interest, direct or indirect, in the Agreement or (b) twelve months after you have returned all Confidential Information supplied to you by us and destroyed or permanently erased all copies of Confidential Information made by you (other than any such Confidential Information or copies which have been disclosed under paragraph 2 above (other than sub-paragraph 2(a)) or which, pursuant to paragraph 4 above, are not required to be returned or destroyed).

6. No Representation; Consequences of Breach, etc

You acknowledge and agree that:

(a) neither we, [nor our principal] nor any member of the Group nor any of our or their respective officers, employees or advisers (each a "Relevant Person") (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by us or the assumptions on which it is based or (ii) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or be otherwise liable to you or any other person in respect to the Confidential Information or any such information; and

(b) we [or our principal] or members of the Group may be irreparably harmed by the breach of the terms hereof and damages may not be an adequate remedy; each Relevant Person may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

7. No Waiver; Amendments, etc

This letter sets out the full extent of your obligations of confidentiality owed to us in relation to the information the subject of this letter. No failure or delay in exercising any right, power or privilege hereunder will operate as a waiver thereof nor will any single or partial exercise of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privileges hereunder. The terms of this letter and your obligations hereunder may only be amended or modified by written agreement between us.

8. Inside Information

You acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation relating to insider dealing and you undertake not to use any Confidential Information for any unlawful purpose.

9. Nature of Undertakings

The undertakings given by you under this letter are given to us and (without implying any fiduciary obligations on our part) are also given for the benefit of [our principal,] the Borrower and each other member of the Group.

10. Third Party Rights

(a) Subject to this paragraph 10 and to paragraphs 6 and 9, a person who is not a party to this letter has no right under the Contracts (Rights of Third Parties) Act 1999 (the "Third Parties Act") to enforce or to enjoy the benefit of any term of this letter.

(b) The Relevant Persons may enjoy the benefit of the terms of paragraphs 6 and 9 subject to and in accordance with this paragraph 10 and the provisions of the Third Parties Act.

(c) The parties to this letter do not require the consent of the Relevant Persons to rescind or vary this letter at any time.

11. Governing Law and Jurisdiction

(a) This letter (including the agreement constituted by your acknowledgement of its terms) is governed by English law.

(b) The parties submit to the non-exclusive jurisdiction of the English courts.

12. Definitions

In this letter (including the acknowledgement set out below) terms defined in the Agreement shall, unless the context otherwise requires, have the same meaning and:

"**Confidential Information**" means any information relating to the Borrower, the Group, the Agreement and/or the Acquisition provided to you by us or any of our affiliates or advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that (a) is or becomes public knowledge other than as a direct or indirect result of any breach of this letter or (b) is known by you before the date the information is disclosed to you by us or any of our affiliates or advisers or is lawfully obtained by you thereafter, other than from a source which is connected with the Group and which, in either case, as far as you are aware, has not been obtained in violation of, and is not otherwise subject to, any obligation of confidentiality;

"**Group**" means the Borrower and each of its holding companies and subsidiaries and each subsidiary of each of its holding companies (as each such term is defined in the Companies Act 1985);

"**Permitted Purpose**" means [subject to the terms of this letter, passing on information to a prospective purchaser for the purpose of] considering and evaluating whether to enter into the Acquisition; and

"**Purchaser Group**" means you, each of your holding companies and subsidiaries and each subsidiary of each of your holding companies (as each such term is defined in the Companies Act 1985).

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

_____

For and on behalf of

[Seller/Seller's agent/broker]

To: [Seller]

[Seller's agent/broker]

The Borrower and each other member of the Group

We acknowledge and agree to the above:

_____

For and on behalf of

[Potential Purchaser/Purchaser's agent/broker]

SCHEDULE 10

TIMETABLES

	Loans in euro	Loans in other currencies
Delivery of a duly completed Utilisation Request (Clause 5.1 (*Delivery of a Utilisation Request*)) or a Selection Notice (Clause 10.1 (*Selection of Interest Periods*))	U-3 11.30am	U-3 11.30am
Agent determines (in relation to a Utilisation) the Base Currency Amount or yen amount of the Loan, if required under Clause 5.4 (*Lenders' participation*)	U-3 2.30pm	U-3 2.30pm
Agent notifies the Lenders of the Loan in accordance with Clause 5.4 (*Lenders' participation*)	U-3 4.30pm	U-3 4.30pm
Agent receives a notification from a Lender under Clause 6.2 (*Unavailability of a currency*)	U-3 as of 5.00pm	U-3 as of 5.00pm
Agent gives notice in accordance with Clause 6.2 (*Unavailability of a currency*)	U-3 as of 5.30pm	U-3 as of 5.30pm
Agent determines amount of the Loan in Optional Currency in accordance with Clause 6.3 (*Change of currency*)	U-3 as of 2.30pm	U-3 as of 2.30pm
Agent determines amount of the Facility A Loan in Optional Currency in accordance with Clause 6.4 (*Same Optional Currency during successive Interest Periods*)	U-3 as of 2.30pm	U-3 as of 2.30pm
Agent determines amount of the Facility A Loan in Optional Currency converted into Base Currency in accordance with paragraph (b) of Clause 6.4 (*Same Optional Currency during successive Interest Periods*)	U-3 as of 2.30pm	U-3 as of 2.30pm
LIBOR or EURIBOR is fixed	Quotation Day as of 11:00 a.m. London time in respect of LIBOR and as of 11.00 a.m. Brussels time in respect of EURIBOR	Quotation Day as of 11:00 a.m.

"U" = date of utilisation

"U - X" = X Business Days prior to date of utilisation

SCHEDULE 11

FORM OF ACCESSION LETTER

To: Banco Bilbao Vizcaya Argentaria, S.A. as Agent

From: [*Additional Guarantor*] and Cemex España, S.A.

Dated:

Dear Sirs

Cemex España, S.A. – EUR 250,000,000 and ¥ 19,308,000,000 Facilities Agreement dated 30 March 2004 (as amended) (the "Agreement")

1. [*Additional Guarantor*] agrees to become an Additional Guarantor and to be bound by the terms of the Facility Agreement as an Additional Guarantor pursuant to Clause 25 (*Changes to the Obligors*) of the Facility Agreement. [*Additional Guarantor*] is a company duly incorporated under the laws and regulations of [*name of relevant jurisdiction*].

2. º*Additional Guarantor's*] administrative details are as follows:

   Address:

   Fax No:

   Attention:

3. This Accession Letter is governed by English law and is entered into by deed.

[Additional Guarantor] Cemex España, S.A.

SCHEDULE 12

MATERIAL SUBSIDIARIES

Cemex Inc.

Cemex Corp.

Cemex Venezuela SACA

Vencement Investments

Construction Fund Corporation

SCHEDULE 13

PROCEEDINGS PENDING OR THREATENED

As of 31 December 2008

1. Environmental Matters

United States

As of 31 December 2008, CEMEX, Inc. and its subsidiaries had accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately U.S.$43 million. The environmental matters relate to (i) the disposal of various materials, in accordance with past industry practice, which might be categorized as hazardous substances or wastes, and (ii) the cleanup of sites used or operated by CEMEX, Inc., including discontinued operations, regarding the disposal of hazardous substances or wastes, either individually or jointly with other parties. Most of the proceedings are in the preliminary stage, and a final resolution might take several years. For purposes of recording the provision, CEMEX, Inc. considers that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. The ultimate cost that might be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work, and negotiations with or litigation against potential sources of recovery have been completed.

CEMEX Construction Materials Florida, LLC f/k/a Rinker Materials of Florida, Inc. (" **CEMEX Florida**"), a subsidiary of CEMEX, Inc., holds one federal quarry permit and is the beneficiary of one of 10 other federal quarrying permits granted for the Lake Belt area in South Florida. The permit held by CEMEX Florida covers CEMEX Florida's SCL and FEC quarries. CEMEX Florida's Krome quarry is operated under one of the other federal quarry permits. The FEC quarry is the largest of CEMEX Floridas' quarries measured by volume of aggregates mined and sold. CEMEX Florida's Miami cement mill is located at the SCL quarry and is supplied by that quarry. A ruling was issued on 22 March 2006 by a judge of the U.S. District Court for the Southern District of Florida in connection with litigation brought by environmental groups concerning the manner in which the permits were granted. Although not named as a defendant, CEMEX Florida has intervened in the proceedings to protect its interests. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the relevant governmental agencies in connection with the issuance of the permits. The judge remanded the permits to the relevant governmental agencies for further review, which review the governmental agencies have indicated in a recent announcement should take until mid February 2009 to conclude. The judge also conducted further proceedings to determine the activities to be conducted during the remand period. In July 2007, the judge issued a ruling that halted certain quarrying operations at three non-CEMEX Florida quarries. The judge left in place CEMEX Florida's Lake Belt permits until the relevant government agencies complete their review. In a May 2008 ruling, the federal appellate court determined that the district court judge did not apply the proper standard of review to the permit issuance decision

of the governmental agency, vacated the district court's prior order, and remanded the proceeding to the district court to apply the proper standard of review; this review remains pending before the district court judge. If the Lake Belt permits are ultimately set aside or quarrying operations under them restricted, CEMEX Florida will need to source aggregates, to the extent available, from other locations in Florida or import aggregates. This would likely affect profits from our Florida operations. Any adverse impacts on the Florida economy arising from the cessation or significant restriction of quarrying operations in the Lake Belt could also have a material adverse effect on our financial results.

Europe

In Great Britain, future expenditure on closed and current landfill sites has been assessed and quantified over the period in which the sites are considered to have the potential to cause environmental harm, generally consistent with the regulator view of up to 60 years from the date of closure. The assessed expenditure relates to the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure. The costs have been quantified on a net present value basis in the amount of approximately £122 million, and an accounting provision for this sum has been made at 31 December 2007.

In 2003, the European Union adopted a directive implementing the Kyoto Protocol on climate change and establishing a greenhouse gas emissions allowance trading scheme within the European Union. The directive requires Member States to impose binding caps on carbon dioxide emissions from installations involved in energy activities, the production and processing of ferrous metals, the mineral industry (including cement production) and the pulp, paper or board production business. Under this scheme, companies with operations in these sectors receive from the relevant Member States allowances that set limitations on the levels of greenhouse gas emissions from their installations. These allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that are not reaching their emissions objectives. Companies can also use credits issued from the use of the flexibility mechanisms under the Kyoto protocol to fulfill their European obligations. These flexibility mechanisms provide that credits (equivalent to allowances) can be obtained by companies for projects that reduce greenhouse gas emissions in emerging markets. These projects are referred to as Clean Development Mechanism (" **CDM**") or joint implementation projects depending on the countries where they take place. Failure to meet the emissions caps is subject to heavy penalties.

Companies can also use, up to a certain level, credits issued under the flexible mechanisms of the Kyoto protocol to fulfill their European obligations. Credits for Emission Reduction projects obtained under these mechanisms are recognized, up to a certain level, under the European emission trading scheme as allowances. To obtain these emission reduction credits, companies must comply with very specific and restrictive requirements from the United Nations Convention on Climate Change (UNFCC).

As required by directive, each of the Member States established a National Allocations Plan, or NAP, setting out the allowance allocations for each industrial facility for Phase I, from 2005 to 2007. Based on the NAPs established by the Member States of the European Union for the 2005 to 2007 period and our actual production, on a consolidated basis after trading allowances between our operations in countries with a deficit of allowances and our operations in countries with an excess of allowances, and after some external operations, Borrower's Subsidiaries had a surplus of allowances of approximately 1,050,054 tons of carbon dioxide in this Phase I.

For Phase II, comprising 2008 through 2012, however, there has been a reduction in the allowances granted by the Member States that have already approved their NAP, which may result in a consolidated deficit in our carbon dioxide allowances during the period. We believe we may be able to reduce the impact of any deficit by either reducing carbon dioxide emissions in our facilities or by obtaining additional emission credits through the implementation of CDM projects. If we are not successful in implementing emission reductions in our facilities or obtaining credits from CDM projects, we may have to purchase a significant amount of emission credits in the market, because CEMEX has already sold a substantial amount of allowances for Phase II, the cost of which may have an impact on our operating results. As of 1 December 2008, the market value of carbon dioxide allowances for Phase II was approximately 15.45 € per ton. CEMEX is taking all the measures to minimize our exposure to this market while assuring the supply of our products to our clients.

The Spanish NAP has been finally approved by the Spanish Government, reflecting the conditions that were set forth by the European Commission. The allocations made to our installations allow us to foresee certain availability of allowances, nevertheless, there remains the uncertainty regarding the allocations that, against the reserve for new entrants, shall be requested for the new CEMEX cement plant in Andorra (Teruel), and that it is scheduled to start operating in 2010.

On 29 May 2007, the Polish government filed an appeal before the Court of First Instance in Luxemburg regarding the European Commission's rejection of the initial version of the Polish NAP. The Court has denied Poland's request for a quick path verdict in the case, keeping the case in the regular proceeding path, therefore, the Polish government has started to prepare Polish internal rules on division of allowance at the level already accepted by the European Commission. Seven major Polish cement producers, representing 98% of Polish cement production (including CEMEX Polska), have also filed seven separate appeals before the Court of First Instance regarding the European Commission's rejection. On 29 September 2008 the Court of the First Instance issued an order rejecting CEMEX Polska's appeal without going into the merit of the case. As of 31 December 2008 the final version of the Polish NAP has not been cleared by the Commission; CEMEX has not determined the impact this may have on CEMEX's position in the country.

2. Tax Matters

Philippines

As of 31 December 2008, the Philippine Bureau of Internal Revenue (BIR), had assessed APO, Solid, IQAC, ALQC and CSPI, our operating subsidiaries in the Philippines, for deficiency taxes covering taxable years 1998-2005 amounting to a total of approximately 1,994 million Philippine Pesos (approximately U.S.$41.96 million as of 31 December 2008, based on an exchange rate of Philippine Pesos 47.52 to U.S.$1.00, which was the Philippine Peso/Dollar exchange rate on 31 December 2008 as published by the Bangko Sentral ng Pilipinas, the central bank of the Republic of the Philippines).

The majority of the tax assessments result primarily from the disallowance of APO's income tax holiday incentives for taxable years 1999 to 2001 (approximately Philippine Pesos 1,078 million or U.S.$22.68 million as of 31 December 2008, based on an exchange rate of Philippine Pesos 47.52 to U.S.$1.00). We have contested the BIR's assessment, arising from the disallowance of the ITH incentive, with the Court of Tax Appeals (CTA). The initial Division ruling of the CTA was unfavorable, but is subject to further appeal with the CTA as a whole. The assessment is now currently on appeal with the CTA En Banc. A motion was filed with the CTA, requesting the court to hold APO totally not liable for alleged income tax liabilities for all the years covered and to this end cancel and withdraw APO's deficiency income tax assessments for taxable years 1999, 2000 and 2001 on the basis of APO's availment of the tax amnesty described below. As of 31 December 2008, resolution on the aforementioned motion is still pending.

3. CEMEX Venezuelan Nationalization

In furtherance of Venezuela's announced policy to nationalize certain sectors of the economy, on 18 June 2008, the Nationalization Decree was promulgated, mandating that the cement production industry in Venezuela be reserved for the Government of Venezuela and ordering the conversion of foreign-owned cement companies, including CEMEX Venezuela, into state-controlled companies with Venezuela holding an equity interest of at least 60%. The Nationalization Decree provided for the formation of a transition committee to be integrated with the board of directors of the relevant cement Borrowers to guaranty the transfer of control over all activities of the relevant cement Borrowers to Venezuela by 31 December 2008. The Nationalization Decree further established a deadline of 17 August 2008 for the shareholders of foreign-owned cement companies, including CEMEX Venezuela, to reach an agreement with the Government of Venezuela on the compensation for the nationalization of their assets. The Nationalization Decree also provided that this deadline may be extended by mutual agreement of the Government of Venezuela and the relevant shareholder. The transition committee, which was to be coordinated by the Ministry of Basic Industries (MIBAN), was never formally instituted and MIBAN never acted in the process, but instead Petroleos de Venezuela (PDVSA) conducted all the conversations.

CEMEX Venezuela and the Government did not reach agreement by the August 17 2008 deadline, and on August 18 2008 the Expropriation Decree was issued by the

President of Venezuela, with PDVSA appointed to conduct the expropriation proceedings. Although these proceedings had not yet commenced, PDVSA officials headed a group of PDVSA workers, with the support of the public force, to take over all the facilities of CEMEX Venezuela on August 17 2008. Since no agreement has been reached with the Venezuelan Government as to the compensation to be paid, the Dutch companies that control CEMEX Venezuela filed an arbitration request before the International Center for the Settlement of Investment Disputes against the Government of Venezuela, which request has been registered and the tribunal is in the process of being formed.

As of 31 December 2007, CEMEX Venezuela, S.A.C.A. was the holding entity of several of CEMEX's investments in the region, including CEMEX's operations in the Dominican Republic and Panama, as well as CEMEX's minority investment in Trinidad & Tobago. In the wake of statements by the Government of Venezuela about the nationalization of assets in Venezuela, in April 2008, CEMEX concluded the transfer of all material non-Venezuelan investments to Cemex España, S.A. for approximately U.S.$355 million plus U.S.$112 million of net debt, having distributed all accrued profits from the non-Venezuelan investments to the stockholders of CEMEX Venezuela amounting to approximately U.S.$132 million. At this time, the net impact or the outcome of the nationalization on CEMEX's consolidated financial results cannot be reasonably estimated. As of 31 December 2008, the net assets of CEMEX's Venezuelan operations under Mexican FRS were approximately US$451.7 million. Since August 2008, CEMEX no longer consolidates the financial results of CEMEX Venezuela.

On 13 June 2008, the Venezuelan securities authority initiated an administrative proceeding against CEMEX Venezuela, claiming that the Borrowers did not sufficiently inform its shareholders and the securities authority in connection with the transfer of the non-Venezuelan assets described above. The Venezuelan authority determined that CEMEX Venezuela did not comply with its disclosure obligations and imposed fines on the Borrowers, which we do not consider material, and requested the attorney general's office to review the case to determine if such non-disclosure also constituted criminal infringement.

4. Other Legal Proceedings

On 5 August 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia, claiming that it was liable along with the other members of the Asociación Colombiana de Productores de Concreto, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system of Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads in a manner which guarantees their service during the 20-year period for which they were originally designed, and estimate that the cost of such repair will be approximately U.S.$45 million. The lawsuit was filed within the context

of a criminal investigation of two ASOCRETO officers and other individuals, alleging that the ready-mix concrete producers were liable for damages if the ASOCRETO officers were criminally responsible. The court completed the evidentiary stage, and on 17 August 2006 dismissed the charges against the members of ASOCRETO. The other defendants (one ex-director of the Distrital Institute of Development, the legal representative of the constructor and the legal representative of the contract auditor) were formally accused. The decision was appealed, and on 11 December 2006, the decision was reversed and the two ASOCRETO officers were formally accused as participants (determiners) in the execution of a state contract without fulfilling all legal requirements thereof. The first public hearing took place on 20 November 2007. In this hearing the judge dismissed an annulment petition filed by the ASOCRETO officers. The petition was based on the fact that the officers were formally accused of a different crime than the one they were being investigated for. This decision was appealed, but the decision was confirmed by the Superior Court of Bogota. On 21 January 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called El Tujuelo, as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required within a period of 10 days to deposit with the Court in cash CoP$337,800 million (approximately U.S.$195 million as of 4 June 2008, based on an exchange rate of CoP1730 to U.S.$1.00, which was the Colombian Peso/Dollar exchange rate on 4 June 2008, as published by the Banco de la República de Colombia, the central bank of Colombia), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. The measure does not affect the normal activity of the quarry. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.

On 5 August 2005, Cartel Damages Claims, SA, or CDC, filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG and other German cement companies. CDC is seeking €102 million in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002, which entities had assigned their claims to CDC. CDC is a Belgian Borrowers established by two lawyers in the aftermath of the German cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office with the express purpose of purchasing potential damages claims from cement consumers and pursuing those claims against the cartel participants. In January 2006, another entity assigned alleged claims to CDC, and the amount of damages being sought by CDC increased to €113.5 million plus interest. On February 21 2007, the District Court of Düsseldorf decided to allow this lawsuit to proceed without going into the merits of this case by issuing an interlocutory judgment. All defendants appealed. The appeal hearing took place on 22 April 2008, and the appeal was dismissed on 14 May 2008. The lawsuit will proceed at the level of court of first instance. As of 30 September 2008 only one defendant has decided to file a complaint before the Federal High Court; this will delay the case from proceeding at the level of first instance to an

extent we cannot assess today. In the meantime, CDC had acquired new assigners and announced an increase in the claim to €131 million. As of 30 November 2008, we had accrued liabilities regarding this matter for a total amount of approximately €20 million.

During November 4, 5 and 6, 2008, officers of the European Commission, assisted by local officials, conducted an unannounced inspection at CEMEX offices in the United Kingdom and Germany. It is understood that Commission officials carried out unannounced inspections at the premises of other companies active in the cement and related products industry in several member states. The Commission alleges that CEMEX may have participated in anti competitive agreements and/or concerted practices in breach of Article 81 of the EC Treaty and/or Article 53 of the EEA Agreement and abusive conduct in breach of Article 82 of the EC Treaty and/or Article 54 of the EEA Agreement. The allegations extend to several markets worldwide, including in particular the European Economic Area; if those allegations are substantiated, significant penalties may be imposed on the subsidiaries of CEMEX operating in such markets. CEMEX fully co-operated and will continue to co-operate with the Commission officials in connection with the inspection.

After an extended consultation period, in April 2006, the cities of Kaštela and Solin in Croatia published their respective Master (physical) Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to Dalmacijacement, our subsidiary in Croatia, by the Government of Croatia in September 2005. During the consultation period, Dalmacijacement submitted comments and suggestions to the Master Plans, but these were not taken into account or incorporated into the Master Plan by Kaštela and Solin. Most of these comments and suggestions were intended to protect and preserve the rights of Dalmacijacement´s mining concession granted by the Government of Croatia in September 2005. Immediately after publication of the Master Plans, Dalmacijacement filed a series of lawsuits and legal actions before the local and federal courts to protect its acquired rights under the mining concessions. The legal actions taken and filed by Dalmacijacement were as follows: (i) on 17 May 2006, a constitutional appeal before the constitutional court in Zagreb, seeking a declaration by the court concerning Dalmacijacement's constitutional claim for decrease and obstruction of rights earned by investment, and seeking prohibition of implementation of the Master Plans, the appeal is currently under review by the court in Croatia, and it is expected that these proceedings will continue for several years before resolution; (ii) on 17 May 2006, a possessory action against the cities of Kaštela and Solin seeking the enactment of interim measures prohibiting implementation of the Master Plans and including a request to implead the Republic of Croatia into the proceeding on our side. The municipal court in Solin issued a first instance judgment dismissing our possessory action. We filed an appeal against that judgment. The appeal has been resolved by the Solin County Court, affirming the judgment and rendering it final. The Municipal Court in Kaštela has issued a first instance judgment dismissing our possessory action. We filed an appeal against said judgment, which has since been resolved by the Kaštela Country Court, affirming the judgment and rendering it final; (iii) on 17 May 2006, an administrative proceeding before the State Lawyer, seeking a declaration from the Government of Croatia confirming that Dalmacijacement acquired rights under the

mining concessions. Dalmacijacement received State Lawyer's opinion which confirms the Dalmacijacement's acquired rights according to the previous decisions ("old concession"). The Administrative Court in Croatia has ruled in favor of Dalmacijacement, validating the legality of the mining concession granted to Dalmacijacement by the Government of Croatia. This decision is final. Currently it is difficult for Dalmacijacement to ascertain the approximate economic impact of these measures by Kaštela and Solin.

Club of Environmental Protection, a Latvian environmental protection organization (hereinafter the " **Applicant**"), has initiated a court administrative proceeding against the decision made by the Environment State Bureau (hereinafter the " **Defendant**") in order to amend the environmental pollution permit (the "**Permit**") for the Broceni Cement Plant in Latvia, owned by CEMEX SIA (the " **Disputed Decision**"). CEMEX SIA was invited to participate in the court proceedings as a third party, whose rights and legal interest may be infringed by the relevant administrative act. On 5 June 2008 the Court rendered its judgment, where it satisfied the Claimant's claim and revoked the Disputed Decision stating that it is illegal because Defendant failed to perform public inquiry in accordance with legal regulations. The judgment has been appealed by both the Defendant and CEMEX SIA before the Court of Appeal and the court will hear the case in 24 February 2009. The appellate procedure will not suspend the operation of the Permit which will remain valid throughout the court proceedings, hence CEMEX SIA is allowed to continue to perform its activities. The Permit subject to this proceeding was issued for the existing cement line, which will be fully substituted in the first half of 2009 by a new cement line currently under construction.

SCHEDULE 14

DEFINING THE JPY FIX RATE

1. **Defining the JPY Fix Rate**

(a) ***Defining the five year Japanese Yen fix rate in the case the five year swap spread between bid and ask is 3 (three) basis points.***

Add to Mid-market of five year Japanese swap rate shown on the "ICAP1" Reuters screen 5 (five) basis points. This calculation should take place on April 13 2004 (for a swap from 15 April 2004 to 30 March 2009) at or about 10 a.m. Madrid time. The result of this procedure will be the five year Japanese Yen fix rate for Facility C.

If the "ICAP1" Reuters screen is not showing a market value at that moment, then there would be a delay of 10 to 15 minutes, assuming that "ICAP1" corrects its quotation.

If after 10:15 a.m. Madrid time on 13 April 2004, the "ICAP1" Reuters screen is still showing a non market quotable rate, then the five year Japanese swap rate shown on the "ICAP1" Reuters screen will be replaced in accordance with the following procedure:

Ask for a quotation of a mid-market value of the reference transaction from the London offices of the following 3 (three) banks:

(i) Deutsche Bank AG

(ii) Barclays Bank PLC

(iii) Crédit Agricole Indosuez

The average of the 3 (three) quotes from the banks will be the Mid-market of five year Japanese swap rate that will apply.

(b) ***Defining the five year Japanese Yen fix rate in the case the five year swap spread between bid-ask is more than 3 (three) basis points.***

If the five year swap spread between bid-ask on 13 April 2004 is more than 3 (three) basis points, the Borrower will have the option of waiting until it comes back to 3 (three) basis points (until 28 April 2004 at the latest), in which case the calculation method described in "(a)" above will apply, or, alternatively, to opt for the following calculation method:

Add to the offer side of the five year Japanese swap rate shown on the "ICAP1" Reuters screen 3.5 (three and a half) basis points. This calculation should take place at or about 10 a.m. Madrid time. The result of this procedure will be the five year Japanese Yen fix rate for Facility C.

If the "ICAP1" Reuters screen is not showing a market value at that moment, then there would be a delay of 10 to 15 minutes, assuming that "ICAP1"

corrects its quotation. If after 10:15 a.m. Madrid time on 28 April 2004 the "ICAP1" Reuters screen is still showing a non market quotable rate, then the five year Japanese swap rate shown on the "ICAP1" Reuters screen will be replaced in accordance with the following procedure:

Ask for a quotation of an offer value for the reference transaction from the London offices of the following 3 (three) banks:

(i) Deutsche Bank AG

(ii) Barclays Bank PLC

(iii) Crédit Agricole Indosuez

The five year Japanese swap rate will be the average of the 3 (three) quotes from the banks.

In any event, if the bid-ask spread remains above 3 (three) basis points during the full period 13 April 2004 – 28 April 2004, the calculation method described in "(b)" will have to apply on 28 April 2004.

2. **Definitions**

"**Mid-market**" means the average of the bid and the offer.

3. **Calculations**

All calculations described in this schedule shall be made by the treasury departments of the Borrower and all of the Facility C Lenders together.

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EXHIBIT 4.4.4

EXECUTION VERSION

FOURTH AMENDMENT TO CREDIT AGREEMENT

This Fourth Amendment to the Credit Agreement (as defined below), dated as of December 19, 2008 (this " Amendment No. 4"), is entered into by and among **CEMEX, S.A.B. de C.V.**, a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States (formerly known as "CEMEX, S.A. de C.V.") (the "Borrower"), **CEMEX MÉXICO, S.A. de C.V.**, a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States, **EMPRESAS TOLTECA DE MÉXICO, S.A. de C.V.**, a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States (each a " Guarantor" and together, the "Guarantors"), the several Lenders party thereto, and **ING CAPITAL LLC**, as Administrative Agent (in such capacity, the " Administrative Agent").

RECITALS

A. The Borrower, the Guarantors, the several Lenders party thereto, the Administrative Agent, Barclays Bank plc, New York Branch, as an Issuing Bank and Documentation Agent, ING Bank N.V., as an Issuing Bank, Barclays Capital, The Investment Banking Division of Barclays Bank plc, as Joint Bookrunner, Citigroup Global Markets Inc., as Joint Bookrunner and Syndication Agent, and ING Capital LLC, as Joint Bookrunner, are parties to that certain credit facility in the amount of U.S.$700,000,000, dated as of June 6, 2005, as amended by Amendment No. 1 to the Credit Agreement, dated as of June 21, 2006, the Amendment and Waiver Agreement No. 2, dated as of December 1, 2006, and the Amendment and Waiver Agreement No. 3, dated as of May 9, 2007 (as now or hereafter amended, restated, waived or otherwise modified, the " Credit Agreement").

B. The Borrower has requested that the Administrative Agent and the Lenders consent to the following amendment to the Credit Agreement.

C. This Amendment No. 4 shall constitute a Transaction Document and these Recitals shall be construed as part of this Amendment No. 4.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, and of the Loans and other extensions of credit heretofore, now or hereafter made to, or for the benefit of, the Borrower by the Lenders, the Borrower, the Guarantors, the Administrative Agent, and the Lenders hereby agree as follows:

1. Definitions. Except to the extent otherwise specified herein, capitalized terms used in this Amendment No. 4 shall have the same meanings ascribed to them in the Credit Agreement.

2. Amendments. Subject to Section 5, the Credit Agreement is hereby amended as follows:

2.1 The definition for "Acquisition" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Acquisition" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if upon the completion of such transaction or transactions, the Borrower or any Subsidiary thereof has acquired an interest in assets comprising all or substantially all of an operating unit, division or line of business or in any Person who is deemed to be a Subsidiary under this Agreement and was not a Subsidiary prior thereto."

2.2 The definition for "Consolidated Net Debt" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Consolidated Net Debt" means, at any date, the sum (without duplication) of (a) the aggregate amount of all Debt of the Borrower and its Subsidiaries at such date, plus (b) to the extent not included in Debt, the aggregate amount of all derivative financing in the form of equity swaps outstanding at such date (except to the extent such exposure is cash collateralized) minus (c) all Temporary Investments (for the avoidance of doubt, net of any amounts pledged as cash collateral) of the Borrower and its Subsidiaries at such date."

2.3 The definition for "Consolidated Net Debt / EBITDA Ratio" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

"Consolidated Net Debt / EBITDA Ratio" means, on any date of determination, the ratio of (a) Consolidated Net Debt on such date to (b) EBITDA for the one year period ending on such date (subject to adjustment as set forth in the definition of "EBITDA").

2.4 The definition for "Debt" in Section 1.01 ("Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Debt" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee under Capital Leases, (v) all Debt of others secured by a Lien on any asset of such Person, up to the value of such asset, as recorded in such Person's most recent balance sheet, (vi) all obligations of such Person with respect to product invoices incurred in connection with export financing, (vii) all obligations of such Person under repurchase agreements for the stock issued by such Person or another Person and (viii) all Guarantees of such Person in respect of any of the foregoing. For the avoidance of doubt, Debt does not include Derivatives or Qualified Receivables Transactions. With respect to the Borrower and its Subsidiaries, the aggregate amount of Debt outstanding shall be adjusted by the Value of Debt Currency Derivatives solely for the purposes of calculating the Consolidated Net Debt / EBITDA Ratio. If the Value of Debt Currency Derivatives is a positive mark-to-market valuation for the Borrower and its Subsidiaries, then Debt shall decrease accordingly, and if the Value of Debt Currency Derivatives is a negative mark-to-market valuation for the Borrower and its Subsidiaries, then Debt shall increase by the absolute value thereof."

2.5 The definition for "EBITDA" in Section 1.01 ("Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""EBITDA" means, for any period, the sum for the Borrower and its Subsidiaries, determined on a consolidated basis of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Mexican GAAP, subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA

for any applicable period pursuant to any determination of the Consolidated Net Debt / EBITDA Ratio (but not the Consolidated Fixed Charge Coverage Ratio): (A) (i) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Disposition, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such applicable period (but when the Material Disposition is by way of lease, income received by the Borrower or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving *pro forma* effect thereto (including the incurrence or assumption of any Debt) as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any Person that subsequently shall have become a Subsidiary or was merged or consolidated with the Borrower or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Disposition or Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Borrower or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Disposition or Acquisition had occurred on the first day of such applicable period; and (B) all U.S.$/Euro EBITDA for each applicable period ending on or after December 31, 2008 will be recalculated and converted into Mexican pesos by applying the Ending Exchange Rate to each month's U.S.$/Euro EBITDA amount (such recalculated EBITDA being the "Recalculated EBITDA"), provided, that, the Required Lenders shall have the option, with respect to any Reference Period ending after December 31, 2009, to discontinue the incorporation of Recalculated EBITDA into the Consolidated Net Debt / EBITDA Ratio (the "Discontinue Option"). The Required Lenders may exercise the Discontinue Option upon notice to the Administrative Agent, who shall, acting upon the instructions of the Required Lenders, notify the Borrower of such exercise in writing (the " Notice of Discontinuance") at least thirty (30) days prior to the end of such Reference Period. Subject to the foregoing notice requirements, such Discontinue Option shall be effective for each Reference Period ending after the date of such Notice of Discontinuance to the Borrower as set forth herein."

2.6 The definition for "Mexican GAAP" in Section 1.01 ("Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Mexican GAAP" means Mexican Financial Reporting Standards (*Normas de Información Financiera*) as in effect from time to time and consistent with those used in the preparation of the most recent audited financial statements referred to in Section 8.01; provided, however, that for purposes of Section 9.01, Mexican GAAP means Mexican Financial Reporting Standards as in effect on December 31, 2008. In the event that any change in Mexican GAAP shall occur, or the Borrower shall decide to or be required to change to IFRS, and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, then the Borrower and the Administrative Agent agree to enter into negotiations in order to amend such provisions of this Agreement so as to equitably reflect such change in Mexican GAAP with the desired result that the criteria for evaluating the Borrower's financial condition shall be the same after such change as if such change had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrower, the Administrative Agent and the Required Lenders, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such change in Mexican GAAP had not occurred."

2.7 The definition for "Qualified Receivables Transaction" in Section 1.01 ("Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Qualified Receivables Transaction" means a sale, transfer, or securitization of receivables and related assets by the Borrower or its Subsidiaries, including a sale at a discount, provided that (i) such receivables have been sold, transferred or otherwise conveyed, directly or indirectly, by the originator thereof in a manner that satisfies the requirements for a sale, transfer or other conveyance under the laws and regulations of the jurisdiction in which such originator is organized; (ii) at the time of the sale, transfer or securitization of receivables is put in place, the receivables are derecognized from the balance sheet of the Borrower or its Subsidiary in accordance with the generally accepted accounting principles applicable to such Person in effect as at the date of such sale, transfer or securitization; and (iii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or securitization is carried out on a non-recourse basis or on a basis where recovery is limited to the collection of receivables."

2.8 The definition for "Subsidiary" in Section 1.01 ("Certain Definitions") shall be amended by the deletion of the last sentence thereof.

2.9 The definition for "Value of Debt Currency Derivatives" in Section 1.01 ("Certain Definitions") shall be amended to include the following sentence at the end thereof:

"For the avoidance of doubt, Value of Debt Currency Derivatives is net of any amounts pledged as cash collateral."

2.10 The following definitions shall be added to Section 1.01 ("Certain Definitions") in alphabetical order:

""Acquired Debt" means, with respect to any specified Person, Debt of any other Person existing at the time such Person becomes a Subsidiary of such specified Person or assumed in connection with the acquisition of assets from such Person."

""Amendment No. 4" means the Fourth Amendment to the Credit Agreement, dated as of December 19, 2008, by and among Cemex S.A.B. de C.V., as Borrower, Cemex México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as Guarantors, ING Capital LLC as Administrative Agent, and the several Lenders party thereto."

""Amendment No. 4 Effective Date" has the meaning specified in Section 5 of Amendment No. 4."

""Capital Expenditure" means, for any period, (a) the additions to property, plant and equipment and other capital expenditures of the Borrower and its Subsidiaries that are (or should be) set forth in a consolidated statement of cash flows of the Borrower for such period prepared in accordance with Mexican GAAP and (b) any Capital Leases incurred by the Borrower and its Subsidiaries during such period."

""Discontinue Option" has the meaning set forth in the definition of "EBITDA" in Section 1.01 of this Agreement."

""Discontinued EBITDA" means, for any period, the sum for Discontinued Operations of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Mexican GAAP consistently applied for such period."

""Discontinued Operations" means operations that are accounted for as discontinued operations pursuant to Mexican GAAP for which the Disposition of such assets has not yet occurred."

""Dutch Loan Agreement" means each of the Senior Unsecured Dutch Loan "A" Agreement and the Senior Unsecured Dutch Loan "B" Agreement, dated as of June 2, 2008 by and among New Sunward Holding B.V., as borrower, CEMEX, S.A.B de C.V. and CEMEX México, S.A. de C.V., as guarantors, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A. and The Royal Bank of Scotland PLC, as joint lead arrangers and joint bookrunners, ING Capital LLC, as administrative agent and ING Bank N.V. acting through its Curaçao Branch and Caja de Madrid – Miami Agency as mandated lead arrangers."

""Ending Exchange Rate" means the exchange rate at the end of a Reference Period for U.S.$ or Euros, as the case may be, corresponding to any U.S.$/Euro EBITDA, in each case as used by the Borrower and its auditors in preparation of the Borrower's financial statements in accordance with Mexican GAAP."

""Euro" means the single currency of Participating Member States."

""Guarantee" means, as applied to any Debt of another Person, (i) a guarantee, direct or indirect, in any manner, of any part or all of such Debt and (ii) any direct or indirect obligation, contingent or otherwise, of a Person guaranteeing or having the effect of guaranteeing the Debt of any other Person in any manner. (and "Guaranteed" and "Guaranteeing" shall have meanings that correspond to the foregoing)."

""IFRS" means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements."

""Incur" means, with respect to any Debt of any Person, to create, issue, incur (by conversion, exchange or otherwise), assume, Guarantee or otherwise become liable in respect of such Debt or the recording, as required pursuant to Mexican GAAP or otherwise, of any such Debt on the balance sheet of such Person. Debt otherwise Incurred by a Person before it becomes a Subsidiary of the Borrower shall be deemed to be Incurred at the time at which such Person becomes a Subsidiary of the Borrower. "Incurrence," "Incurred," "Incurrable" and "Incurring" shall have meanings that correspond to the foregoing."

""Investment" by the Borrower or its Subsidiaries means, any direct or indirect capital contribution (by means of any transfer of cash) to another Person which is not the Borrower or its Subsidiaries, not constituting an Acquisition."

""Notice of Discontinuance" has the meaning set forth in the definition of "EBITDA" in Section 1.01 of this Agreement."

""Ordinary Course Loans" means a loan or advance: (i) made by the Borrower or any of its Subsidiaries to a supplier, vendor, customer or other similar counterparty; (ii) which is due and payable not more than eighteen (18) months after being made (and where the Debt being Incurred to fund such loan or advance has a weighted average life to maturity that is greater than such loan or advance); (iii) made on terms and under circumstances consistent with past practices of the Borrower or such Subsidiary; and (iv) the aggregate principal amount of which, when added to all other such loans and advances, does not exceed at any time U.S.$75,000,000 (or the equivalent in other currencies)."

""Participating Member State" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union."

""Permitted Debt" means, any Debt:

(a) the net proceeds of which are applied to repay, prepay or discharge the Loans or other Debt existing as at the date of such Incurrence and associated costs and expenses, so long as either: (i) the weighted average life to maturity of such new Debt is not less than the remaining weighted average life to maturity of the Debt being repaid, prepaid or otherwise discharged and the proceeds of such new Debt are applied towards such repayment, prepayment or other discharge within fifteen (15) days of such Incurrence; or (ii) such new Debt is incurred under a liquidity facility or facilities in an aggregate principal amount not exceeding U.S.$600,000,000 outstanding at any time, provided, that, the proceeds of such new Debt are used to repay, prepay or otherwise discharge Debt outstanding on the Amendment No. 4 Effective Date (including any such Debt that has been refinanced) within fifteen (15) days of the Incurrence of such new Debt;

(b) the net proceeds of which are applied to pay obligations of the Borrower and/or its Subsidiaries arising under written agreements existing on the Amendment No. 4 Effective Date, excluding obligations in respect of Capital Expenditures, Restricted Payments and Investments;

(c) the net proceeds of which are applied for Capital Expenditures (i)(A) made from January 1, 2009 until December 31, 2009, in an aggregate amount per annum not to exceed U.S.$60,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing and (B) U.S.$40,000,000 (or the equivalent in other currencies) in all other cases; and (ii)(A) made from January 1, 2010 until the Termination Date, in an aggregate amount per annum not to exceed U.S.$40,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing and (B) U.S.$60,000,000 (or the equivalent in other currencies) in all other cases; provided, that, any Debt Incurred pursuant to this clause has a weighted average life to maturity that is greater than the remaining weighted average life to maturity of the Debt under this Agreement;

(d) the net proceeds of which are applied to satisfy obligations of the Borrower or any of its Subsidiaries arising in the ordinary course of business of such Person, excluding obligations in respect of (i) Capital Expenditures, (ii) Restricted Payments, (iii) Acquisitions, (iv) Investments, and (v) loans and advances made or to be made by such Person, other than Ordinary Course Loans;

(e) owed to the Borrower or any of its consolidated Subsidiaries;

(f) which has become Debt solely due to a change in Mexican GAAP;

(g) to the extent resulting from the conversion of a Loan into a Maturity Loan (as defined in each Dutch Loan Agreement) pursuant to a Dutch Loan Agreement;

(h) to the extent resulting from the closing of, or funding under, a facilities agreement with CEMEX Espana, S.A. as Borrower, CEMEX Australia Holdings Pty Limited and CEMEX, Inc. as Original Guarantors, Banco Santander, S.A. and The Royal Bank of Scotland Plc as Documentation Agents, and The Royal Bank of Scotland Plc as Facility Agent, in an aggregate amount of up to U.S.$2,000,000,000 (or the equivalent thereof in other currencies) so long as the net proceeds of which are applied to repay, prepay or discharge existing bilateral debt; or

(i) any Guarantee Incurred by the Borrower or any of its Subsidiaries for any of the Debt referred to in paragraphs (a) to (h) above."

""Recalculated EBITDA" has the meaning set forth in the definition of "EBITDA" in Section 1.01 of this Agreement."

""Reference Period" means any period of four consecutive fiscal quarters."

""Restricted Payment" means any cash dividend or other cash distribution with respect to any Capital Stock of the Borrower, or any cash payment, including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Capital Stock, or on account of any return of capital to the Borrower's stockholders."

""SEC" means the U.S. Securities and Exchange Commission."

""Solvent" means, with respect to any Person, that such Person (a) owns and will own assets the fair saleable value of which are (i) greater than the total amount of its debts and liabilities, subordinated, contingent or otherwise; and (ii) greater than the amount that will be required to pay the probable liabilities of its then existing debts, as such debts become absolute and matured and considering all financing alternatives and potential asset sales reasonably available to it; (b) has capital that is not unreasonably small in relation to its business as presently conducted and as proposed to be conducted following the Amendment No. 4 Effective Date; (c) does not intend to incur and does not believe that it will incur debts beyond its ability to pay such debts as they become due; and (d) is not, or is not deemed to be, in general default of its obligations pursuant to the Mexican *Ley de Concursos Mercantiles*. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability. For the purposes of this definition " fair saleable value" means the aggregate amount of net consideration (giving effect to reasonable and customary costs of sale and taxes) that could be expected to be realized if the aggregate assets of the applicable entity are sold with reasonable promptness in an arm's length transaction under present conditions for the sale of assets of comparable business enterprises."

""U.S.$/Euro EBITDA" means any EBITDA of a Subsidiary of the Borrower for a particular Reference Period which is generated in U.S.$ or Euros."

2.11 Section 1.03 ("Accounting Terms and Determinations") shall be amended by the addition of "(a)" after the heading " Accounting Terms and Determinations." and the addition of a new Paragraph (b) to read as follows:

"(b) Calculations with respect to the Consolidated Net Debt/EBITDA Ratio and the Adjusted Consolidated Net Tangible Assets and the defined terms used in such calculations, when made in relation to dates other than the last day of a fiscal period, shall be made by the Borrower acting in good faith by reference to (i) the most recently available financial statements of the Borrower and its Subsidiaries (including, to the extent available, unaudited monthly financial information) as of such date and (ii) events, conditions and circumstances occurring or existing subsequent to such financial statements."

2.12 A new Section 6.23 ("Solvency") shall be added to the Credit Agreement to read as follows:

"6.23 Solvency. The Borrower and each Guarantor is, and after giving effect to the Loans and each of the transactions contemplated by this Agreement and the Transaction Documents will be, Solvent."

2.13 Paragraph (a) of Section 9.01 ("Financial Conditions") shall be deleted and replaced in its entirety with the following language:

"(a) The Borrower shall not permit the Consolidated Net Debt / EBITDA Ratio at any time to exceed:

(i) 4.50 to 1.0 during the Reference Period ending on each of December 31, 2008 and March 31, 2009;

(ii) 4.75 to 1.0 during the Reference Period ending on June 30, 2009;

(iii) 4.50 to 1.0 during the Reference Period ending on each of September 30, 2009 and December 31, 2009;

(iv) 4.25 to 1.0 during the Reference Period ending on March 31, 2010; and

(v) 4.25 to 1.0 during the Reference Period ending on the Termination Date.

2.14 Paragraph (j) of Section 9.02 ("Liens") shall be deleted and replaced in its entirety with the following language:

"(j) any Liens in respect of any Qualified Receivables Transactions;"

2.15 Paragraph (c) of Section 9.03 ("Consolidations and Mergers") shall be deleted and replaced in its entirety with the following language:

"(c) immediately after giving effect to such transaction, including for purposes of this clause (c) the substitution of any Successor to the Borrower for the Borrower or the substitution of any Successor to a Guarantor for such Guarantor and treating any Debt or Lien incurred by the Borrower or any Successor to the Borrower, or by a Guarantor of the Borrower or any Successor to such Guarantor, as a result of such transactions as having been incurred at the time of such transaction (and Incurred for the purposes of Section 9.07), no Default or Event of Default shall have occurred and be continuing; and"

2.16 Section 9.04 ("Sales of Assets, Etc.") shall be deleted and replaced in its entirety with the following language:

"9.04 Sales of Assets, Etc. The Borrower will not, and will not permit any of its Material Subsidiaries to, sell, lease or otherwise dispose of any of its assets (including the Capital Stock of any Subsidiary), other than (a) inventory, trade receivables and assets surplus to the needs of the business of the Borrower or any Subsidiary sold in the ordinary course of business, (b) assets not used, usable or held for use in connection with cement operations and related operations, and (c) any "margin stock" within the meaning of Regulation U acquired by the Borrower with the proceeds of the Loans through a Tender Offer, unless the proceeds of the sale of such assets are retained by the Borrower or such Subsidiary, as the case may be, and, as promptly as practicable after such sale (but in any event within one hundred and eighty (180) days of such sale), the proceeds are applied to (i) expenditures for property, plant and equipment usable in the cement industry or related industries; (ii) the repayment of senior Debt of the Borrower or any of its Subsidiaries, whether secured or unsecured; or (iii) investments in companies engaged in the cement industry or related industries; provided, however, that the net proceeds from Qualified Receivables Transactions to the extent exceeding, in the aggregate, the aggregate U.S.$ amount set forth in Schedule 9.04 attached hereto shall be applied to the repayment of senior Debt of the Borrower or any of its Subsidiaries, whether secured or unsecured; and provided, that, nothing in this Section 9.04 shall prevent any sale, lease or other disposal of assets from any Subsidiary to another Subsidiary."

2.17 A new Section 9.07 ("Limitation on Indebtedness") shall be added to the Credit Agreement to read as follows:

"9.07 Limitation on Indebtedness. The Borrower shall not, and shall not permit any of its Subsidiaries to, Incur any Debt (including Acquired Debt), provided, that, the Borrower or any Subsidiary may Incur Debt if on the date of such Incurrence and after giving effect thereto on a *pro forma* basis (as if such Debt had been Incurred on the first day of the relevant Reference Period): (a) the Consolidated Net Debt / EBITDA Ratio is less than 3.5 to 1.0 and (b) no Event of Default has occurred and is continuing or would result from the Incurrence of such Debt. Notwithstanding the foregoing, the Borrower and its Subsidiaries may Incur Permitted Debt.

(a) Upon each Incurrence of Debt, the Borrower or Subsidiary, as the case may be, may designate (and later re-designate) in its sole discretion pursuant to which category of Permitted Debt any Debt is being Incurred and may subdivide an amount of Debt and designate (and later redesignate) more than one such category pursuant to which such amount of Debt is being Incurred and such Permitted Debt shall not be deemed to have been Incurred or outstanding under any other category of Permitted Debt. For the avoidance of doubt, the inability of the Borrower or its Subsidiary to Incur Debt under one category shall not limit the ability of the Borrower or its Subsidiary to Incur Debt under another category.

(b) Accrual of interest shall not be deemed to be an Incurrence of Debt for purposes of this Section 9.07. Notwithstanding any other provision of this covenant, the maximum amount of Debt that the Borrower and its Subsidiaries may Incur pursuant to this covenant shall not be deemed to be exceeded, with respect to any outstanding Debt, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Debt Incurred to refinance other Debt, if Incurred in a different currency from the Debt being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Debt is denominated that is in effect on the date of such refinancing.

(c) For purposes of determining compliance with any U.S. Dollar-denominated restriction on the Incurrence of Debt, the U.S. Dollar equivalent principal amount of Debt denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Debt was Incurred."

2.18 Paragraph (e) ("Defaults under Other Agreements") of Section 11.01 ("Events of Default") shall be deleted and replaced in its entirety with the following language:

"(e) Defaults under Other Agreements. The occurrence of a default or event of default under any indenture, agreement or instrument relating to any Material Debt of the Borrower or any of its Subsidiaries, and such default or event of default results in the acceleration of the maturity of any principal amount of such Material Debt prior to the date on which it would otherwise become due and payable; or any principal amount of Material Debt of the Borrower or any of its Subsidiaries shall not be paid upon the scheduled maturity thereof (after giving effect to any applicable grace period); or"

2.19 A new Section 11.05 ("Remedies Independent") shall be added to the Credit Agreement to read as follows:

"11.05 Remedies Independent. Any debt owing to a Lender under the Transaction Documents shall be a separate and independent debt. Except as otherwise stated in the Transaction Documents, (i) any right of a Lender under the Transaction Documents shall be a separate and independent right and (ii) a Lender may separately enforce its rights under the Transaction Documents."

2.20 Paragraph (b) of Section 15.02 ("Amendments and Waivers") shall be amended by the insertion of the word "or" after the semicolon at the end of subsection (vi) thereof and the addition of a new subsection (vii) at the end thereof, to read as follows:

"(vii) amend, modify or waive any provision of Article X or release any Guarantor from its obligations hereunder;"

2.21 Paragraph (a) of Section 15.11 ("Submission to Jurisdiction") shall be amended to include the following sentence at the end thereof:

"Each of the parties hereto also submits to the jurisdiction of the competent courts of its corporate domicile in respect of actions initiated against it as a defendant."

2.22 Paragraph (b) of Section 15.11 ("Submission to Jurisdiction") shall be deleted and replaced in its entirety with the following language:

"(b) Each of the parties hereto hereby irrevocably waives, to the fullest extent it may effectively do so, the jurisdiction of any court other than those identified in paragraph (a) above and any objection that it may now or hereafter have to the laying of venue of any such suit, action or proceeding in any such federal or New York State court and irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of any such suit, action or proceeding."

2.23 Paragraph (a) of Section 15.12 ("Appointment of Agent for Service of Process") shall be amended by the insertion of the following sentence after the first sentence thereof:

"The Borrower and each Guarantor hereby appoints as its conventional domicile exclusively to receive any of the notices and service of process, the domicile of the Process Agent mentioned above or any other domicile notified in writing by the Process Agent to the Borrower, the Administrative Agent or any Lender."

3. Representations and Warranties. The Borrower and each of the Credit Parties hereby represent and warrant to the Administrative Agent and the Lenders that:

3.1 The representations and warranties of the Borrower contained in the Credit Agreement are true and correct as of the date of this Amendment No. 4; provided, however, that (i) in Section 6.06 ("Litigation"), the reference to Schedule 6.06 is replaced by Schedule 6.06 attached hereto and (ii) with respect to Section 6.11 ("Ownership of Property"), the representations and warranties are true and correct, other than as is set forth in the Risk Factors in the Borrower's Form 20-F for the year ended December 31, 2007 filed with the SEC and updated in the Borrower's Form 6-K filed on August 19, 2008 with the SEC, in each case with respect to CEMEX Venezuela S.A.C.A.

3.2 The representations and warranties of the Guarantors contained in the Credit Agreement are true and correct as of the date of this Amendment No. 4; provided, however, in Section 7.05 ("Litigation"), the reference to Schedule 7.05 is replaced by Schedule 6.06 attached hereto.

3.3 The execution, delivery and performance by the Borrower and each of the other Credit Parties of this Amendment No. 4 has been duly authorized by all necessary corporate action, and this Amendment No. 4 constitutes the legal, valid and binding obligation of the Borrower and each of the Credit Parties enforceable against the Borrower and each of the Credit Parties in accordance with its terms, except as enforceability may be limited by applicable *concurso mercantil,* bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally or general equity principles.

3.4 The execution, delivery and performance of this Amendment No. 4 does not, and will not, contravene or conflict with any provision of (i) any Requirement of Law, (ii) any judgment, decree or order, or (iii) the certificate or articles of incorporation or by-laws or other constituent documents of the Borrower and the Credit Parties, and does not, and will not, contravene or conflict with, or cause any Lien to arise under, any provision of any Contractual Obligation applicable to the Borrower and the Credit Parties.

3.5 No Default or Event of Default exists under the Credit Agreement or any other Transaction Document or will exist after or be triggered by the execution, delivery and performance of this Amendment No. 4. In addition, the Borrower and the Credit Parties hereby represent, warrant and reaffirm that the Credit Agreement, the Notes and each of the other Transaction Documents remain in full force and effect.

4. Facility Fee. The Borrower hereby agrees to pay to the Administrative Agent for the benefit of each Lender that is a signatory to this Amendment No. 4 (each a "Consenting Lender") a facility fee, which shall accrue and be payable in arrears for each Facility Fee Period, in an amount equal to the percentage per annum determined in accordance with the table below (the " Facility Fee"), and applied to a Consenting Lender's Average Drawn Commitments for such Facility Fee Period and will accrue on, and be calculated based on, the number of days elapsed in such Facility Fee Period. The Facility Fee for each Facility Fee Period will be as set forth below determined in accordance with the Consolidated Net Debt / EBITDA Ratio calculated based on the financial statements delivered, or required to be delivered, on the applicable Calculation Date:

Consolidated Net Debt / EBITDA Ratio	Facility Fee
Greater than 4.50 to 1	2.00%
Less than or equal to 4.50 to 1, but greater than 4.00 to 1	1.25%
Less than or equal to 4.00 to 1, but greater than 3.75 to 1	0.75%
Less than or equal to 3.75 to 1, but greater than 3.50 to 1	0.5%
Less than or equal to 3.50 to 1	0%

The Facility Fee shall be payable within five Business Days after the Calculation Date applicable to each relevant Facility Fee Period; provided that, in respect of any Facility Fee Period ending on an Early Repayment Event, the Facility Fee shall be payable on the date of such Early Repayment Event. Notwithstanding the above, no Facility Fee shall be payable in respect of any Facility Fee Period in which an acceleration of any Loan occurs or in respect of any fiscal quarter thereafter.

For purposes of this Section 4, the following definitions shall apply:

"Average Drawn Commitments" means, for any Facility Fee Period, the Consenting Lender's ratable share of the Average Outstanding Loans under the Credit Agreement as of the end of each day during such Facility Fee Period, divided by the number of days in such Facility Fee Period.

"Calculation Date" means with respect to each Facility Fee Period, the earlier of the date on which the Borrower delivers, or is required to deliver, its financial statements with respect to the fiscal quarter ending on the last day of such Facility Fee Period in accordance with Sections 8.01(a) and 8.01(b) of the Credit Agreement; provided, however, that if an Early Repayment Event occurs the Calculation Date for the Facility Fee Period ending on such Early Repayment Event shall be the date on which the financial statements for the most recently completed fiscal quarter for which financial statements are required to have been delivered pursuant Sections 8.01(a) and 8.01(b) of the Credit Agreement have been delivered or were required to be delivered.

"Facility Fee Period" means each fiscal quarter; provided, however,

(1) the first Facility Fee Period shall commence on, and include, the Amendment No. 4 Effective Date and end on, and include, December 31, 2008;

(2) that in respect of any Facility Fee Period in which the Loans are repaid or prepaid in full (" Early Repayment Event"), such Facility Fee Period shall be deemed to end on the date of such Early Repayment Event; and

(3) if the Borrower requests any Borrowings after an Early Repayment Event, the Facility Fee Period will commence on the date of such Borrowing and end on the last day of the fiscal quarter in which such Borrowing occurred.

5. Conditions Precedent to Effectiveness. The effectiveness of the amendments set forth in Section 2 hereof are in each instance subject to the satisfaction of each of the following conditions precedent (the date on which all such conditions precedent are satisfied or waived being the " Amendment No. 4 Effective Date"):

5.1 Amendment No. 4. This Amendment No. 4 shall have been duly authorized, executed and delivered by each of the Borrower, the Guarantors and the Required Lenders, and acknowledged by the Administrative Agent (which shall be a purely ministerial action).

5.2 No Default. No Default or Event of Default shall have occurred and be continuing, or would result from the execution or effectiveness of this Amendment No. 4.

5.3 Opinions. The Administrative Agent and the Lenders shall have received opinions from (i) the Borrower's General Counsel and (ii) Skadden, Arps, Slate, Meagher & Flom LLP, with respect to the enforceability of this Amendment No. 4 and no conflict with New York law and material agreements governed by New York law, and in form and substance acceptable to the Administrative Agent.

5.4 No Material Adverse Effect. No Material Adverse Effect has occurred since December 31, 2007 (excluding the financial condition and events previously disclosed in (i) the Borrower's filings made with the SEC or the *Bolsa Mexicana de Valores, S.A.B de C.V.* after December 31, 2007; or (ii) in the Borrower's unaudited financial statements for each of the first three fiscal periods of 2008).

5.5 Solvency. The Borrower and each Guarantor is, and after giving effect to each of the transactions contemplated by this Amendment No. 4 and the Transaction Documents will be, Solvent.

5.6 Miscellaneous. The Administrative Agent and the Lenders shall have received such other agreements, instruments and documents as the Administrative Agent or the Lenders may reasonably request.

5.7 Other Facilities. Section 2.13 of this Amendment shall not be effective until the debt obligations set forth on Exhibit A attached hereto have been amended in form and substance reasonably satisfactory to the Lenders and the Borrower shall have notified the Administrative Agent of such modification in writing.

6. Reference to and Effect Upon the Credit Agreement and other Transaction Documents.

6.1 Full Force and Effect. Except as specifically provided herein, the Credit Agreement, the Notes and each other Transaction Document shall remain in full force and effect and each Note, Transaction Document, and the Credit Agreement is hereby ratified and confirmed by the Borrower.

6.2 No Waiver. The execution, delivery and effect of this Amendment No. 4 shall be limited precisely as written and shall not be deemed to (i) be a consent to any waiver of any term or condition, or to any amendment or modification of any term or condition (except as specifically provided herein) of the Credit Agreement, the Notes or any other Transaction Document, (ii) prejudice any right, power or remedy which the Administrative Agent or any Lender now has or may have in the future under or in connection with the Credit Agreement or any other Transaction Document or (iii) constitute a novation of any of the obligations under the Credit Agreement, the Notes, and the other Transaction Documents.

6.3 Certain Terms. Each reference in the Credit Agreement to "this Agreement", "hereunder", "hereof", "herein" or any other word or words of similar import shall mean and be a reference to the Credit Agreement as amended hereby, and each reference in any other Transaction Document to the Credit Agreement or any word or words of similar import shall be and mean a reference to the Credit Agreement as amended hereby.

7. Counterparts. This Amendment No. 4 may be executed in any number of counterparts, each of which when so executed shall be deemed an original but all such counterparts shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment No. 4 by telecopier shall be as effective as delivery of a manually executed counterpart signature page to this Amendment No. 4.

8. Costs and Expenses. As provided in the Credit Agreement, the Borrower shall pay the reasonable fees, costs and expenses incurred by the Administrative Agent in connection with the preparation, execution and delivery of this Amendment No. 4 (including, without limitation, attorneys' fees).

9. GOVERNING LAW. THIS AMENDMENT NO. 4 SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK.

10. Headings. Section headings in this Amendment No. 4 are included herein for convenience of reference only and shall not constitute a part of this Amendment No. 4 for any other purpose.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

CEMEX, S.A.B. de C.V.,
as Borrower

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

[Signature Page Amendment No. 4 to $700mm Facility – Cemex S.A.B. de C.V.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

CEMEX MÉXICO, S.A. de C.V.,
as a Guarantor

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

[Signature Page Amendment No. 4 to $700mm Facility – Cemex Mexico, S.A. de C.V.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

EMPRESAS TOLTECA de MÉXICO, S.A. de C.V.,
as a Guarantor

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

[Signature Page Amendment No. 4 to $700mm Facility – Empresas Tolteca de Mexico, S.A. de C.V]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

ING CAPITAL LLC,
as Administrative Agent

By /s/ Michael Lopez
Name: Michael Lopez
Title: Director

[Signature Page Amendment No. 4 to $700mm Facility – ING Capital LLC]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

BARCLAYS BANK PLC,
as Lender

By /s/ Nicholas A. Bell
Name: Nicholas A. Bell
Title: Director

[Signature Page Amendment No. 4 to $700mm Facility – Barclays Bank, PLC, New York Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

COMERICA BANK,
as Lender

By /s/ [illegible]
Name: [illegible]
Title: Vice President

[Signature Page Amendment No. 4 to $700mm Facility – Comerica Bank]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

CITIBANK, N.A., NASSAU, BAHAMAS BRANCH,
as Lender

By /s/ Leslie Munroe
Name: Leslie Munroe
Title: Attorney-In-Fact Citibank N.A. Nassau, Bahamas Branch

[Signature Page Amendment No. 4 to $700mm Facility – Citibank, N.A., Nassau, Bahamas Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

BANCO SANTANDER, S.A., NEW YORK BRANCH,
as a Lender

By /s/ Harry Moreno
Name: Harry Moreno
Title: Vice President

By /s/ Jesus Lopez
Name: Jesus Lopez
Title: Vice President

[Signature Page Amendment No. 4 to $700mm Facility – Banco Santander, S.A., New York Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

THE BANK OF NOVA SCOTIA,
as a Lender

By /s/ Marian Lawson
Name: Marian Lawson
Title: Managing Director, Co-Head Corporate Banking

[Signature Page Amendment No. 4 to $700mm Facility – The Bank of Nova Scotia]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

BANCO BILBAO VIZCAYA
ARGENTARIA, S.A., GRAND CAYMAN BRANCH,
as a Lender

By /s/ Rodolfo Hare
Name: Rodolfo Hare
Title: Vice President Global Corporate Banking

By /s/ Cristian Aguirre
Name: Cristian Aguirre
Title: Assistant Vice President International Corporate Banking

[Signature Page Amendment No. 4 to $700mm Facility – Banco Bilbao Vizcaya Argentaria, S.A., Grand Cayman Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

BNP PARIBAS PANAMA BRANCH,
as a Lender

By /s/ Nair Gonzalez
Name: Nair Gonzalez
Title: Senior Vice-President

By /s/ Alain Ligault
Name: Alain Ligault
Title: Senior Credit Officer

[Signature Page Amendment No. 4 to $700mm Facility – BNP Paribas Panama Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

CALYON NEW YORK BRANCH,
as a Lender

By /s/ Jesus Tueme
Name: Jesus Tueme
Title: Managing Director

By /s/ David Rigaud
Name: David Rigaud
Title: Managing Director

[Signature Page Amendment No. 4 to $700mm Facility – Calyon New York Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

ING BANK N.V. (ACTING THROUGH ITS CURACAO BRANCH),
as a Lender

By /s/ Remco Gaanderse
Name: Remco Gaanderse
Title: Country Manager

By /s/ [illegible]
Name: [illegible]
Title: Chief Financial Officer

[Signature Page Amendment No. 4 to $700mm Facility – ING Bank N.V. (Acting through its Curacao Branch)]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

WACHOVIA BANK, NATIONAL ASSOCIATION,
as a Lender

By /s/ Kathleen H. Ready
Name: Kathleen H. Ready
Title: Managing Director

[Signature Page Amendment No. 4 to $700mm Facility – Wachovia Bank, National Association]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

BAYERISCHE LANDESBANK,
as a Lender

By /s/ Gina Hoey
Name: Gina Hoey
Title: Vice President

By /s/ Nikolai von Mengden
Name: Nikolai von Mengden
Title: Senior Vice President

[Signature Page Amendment No. 4 to $700mm Facility – Bayerische Landesbank, New York Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

HSBC MÉXICO, S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC,
as a Lender

By /s/ Juan Carlos Chavez Sevilla
Name: Juan Carlos Chavez Sevilla
Title: Attorney in Fact

[Signature Page Amendment No. 4 to $700mm Facility – HSBC Mexico, S.A.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

SOCIÉTÉ GÈNÉRALE,
as a Lender

By /s/ Ambrish Thanawala
Name: Ambrish Thanawala
Title: Managing Director

[Signature Page Amendment No. 4 to $700mm Facility – Société Gènérale]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

BANK OF AMERICA, N.A.,
as a Lender

By /s/ Emilio Arriaga B
Name: Emilio Arriaga B
Title: Vice President

[Signature Page Amendment No. 4 to $700mm Facility – Bank of America, N.A.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.,
as a Lender

By /s/ Makoto Kinoshita
Name: Makoto Kinoshita
Title: VP & Manager

[Signature Page Amendment No. 4 to $700mm Facility – The Bank of Tokyo-Mitsubishi UFJ, Ltd.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

JPMORGAN CHASE BANK, N.A.,
as a Lender

By /s/ Pablo Ogarrio
Name: Pablo Ogarrio
Title: Vice President

[Signature Page Amendment No. 4 to $700mm Facility – JPMorgan Chase Bank, N.A.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

CITIBANK (BANAMEX USA),
as a Lender

By /s/ Jeff Healy
Name: Jeff Healy
Title: Senior Vice President

By /s/ Juan Estrada
Name: Juan Estrada
Title: Vice President

[Signature Page Amendment No. 4 to $700mm Facility – Citibank (Banamex USA)]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

DEUTSCHE BANK AG, NEW YORK BRANCH,
as a Lender

By /s/ J. Otero
Name: J. Otero
Title:

By /s/ [illegible]
Name: [illegible]
Title:

[Signature Page Amendment No. 4 to $700mm Facility – Deutsche Bank AG, New York Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

DRESDNER BANK AG, ACTING THROUGH ITS LENDING OFFICE DRESDNER BANK AG, NEW YORK BRANCH,
as a Lender

By /s/ Brian Smith
Name: Brian Smith
Title: Managing Director

By /s/ Mark McGuigan
Name: Mark McGuigan
Title: Vice President

[Signature Page Amendment No. 4 to $700mm Facility – Dresdner Bank AG]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

MIZUHO CORPORATE BANK, LTD.,
as a Lender

By /s/ David Napoli Costa
Name: David Napoli Costa
Title: Deputy General Manager

[Signature Page Amendment No. 4 to $700mm Facility – Mizuho Corporate Bank, Ltd.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

UNICREDITO S.P.A., NEW YORK BRANCH,
as a Lender

By /s/ [illegible]
Name: [illegible]
Title: Vice President

By /s/ [illegible]
Name: [illegible]
Title: [illegible] Vice President

[Signature Page Amendment No. 4 to $700mm Facility – Unicredito S.P.A.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

STANDARD CHARTERED BANK,
as a Lender

By /s/ Natalia Cucalon
Name: Natalia Cucalon
Title: Associate Director

By /s/ Robert K. Reddington
Name: Robert K. Reddington
Title: AVP/Credit Documentation
Credit Risk Control
Standard Chartered Bank N.Y.

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

INTESA SANPAOLO S.p.A., NEW YORK BRANCH
as a Lender

By /s/ Barbara J. Bassi
Name: Barbara J. Bassi
Title: Vice President

By /s/ D. Mara Lowenstein
Name: D. Mara Lowenstein, Esq.
Title: General Counsel & Vice President

[Signature Page Amendment No. 4 to $700mm Facility – Intesa Sanpaolo S.p.A.]

EXHIBIT A

Other Facilities

(1) Credit Agreement, dated as of May 31, 2005, by and among CEMEX, as borrower, CEMEX México and Empresas Tolteca, as guarantors, the several lenders party thereto, Barclays Bank PLC, New York Branch, as administrative agent, Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner, for an aggregate principal amount of U.S.$1,200,000,000, as amended by Amendment No. 1 thereto, dated as of June 19, 2006, the Amendment and Waiver Agreement, dated as of November 30, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Limited Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of the date hereof.

(2) Amended and Restated Facilities Agreement, dated as of the date hereof, for New Sunward Holding B.V. as borrower, CEMEX, CEMEX Mexico and Empresas Tolteca as guarantors and Citibank, N.A. as agent, for an aggregate principal amount of U.S.S700,000,000.

(3) Senior Unsecured Dutch Loan "A" Agreement, dated as of June 2, 2008, by and among NSH, CEMEX, CEMEX México, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto for an aggregate principal amount of U.S. $525,000,000 as amended by First Amendment and Waiver to Senior Unsecured Dutch Loan "A" Agreement dated as of the date hereof.

(4) Senior Unsecured Dutch Loan "B" Agreement, dated as of June 2, 2008, by and among NSH, CEMEX, CEMEX México, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto for an aggregate principal amount of U.S. $525,000,000 as amended by First Amendment and Waiver to Senior Unsecured Dutch Loan "B" Agreement dated as of the date hereof.

(5) Amendment and Restatement Agreement relating to a U.S.$2,300,000,000 revolving facilities agreement, dated as of September 24, 2004 (as amended and restated from time to time) and made between, among others, CEMEX España, S.A., as borrower and guarantor, Citigroup Global Markets Limited, Banco Bilbao Vizcaya Argentaria, S.A., Banco Santander Central Hispano, S.A. and Calyon Corporate and Investment Bank as arrangers and joint bookrunners, and Citibank International plc acting as agent.

(6) Waiver letter relating to a EUR250,000,000 and JBY19,308,000,000 term and revolving facilities agreement dated as of March 30, 2004 (as amended and restated from time to time) and made between, among others, CEMEX España, S.A., as borrower, Banco Bilbao Vizcaya Argentaria, S.A. and Société Générale, S.A. as arrangers, and Banco Bilbao Vizcaya Argentaria, S.A. as agent.

SCHEDULE 6.06

Litigation

A description of material actions, suits, investigations, litigations or proceedings, including Environmental Actions, affecting Borrower or any of its Subsidiaries before any court, Governmental Authority or arbitrator is provided below.

Environmental Matters

United States

As of November 30, 2008, CEMEX, Inc. and its subsidiaries had accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately U.S.$42.6 million. The environmental matters relate to (i) the disposal of various materials, in accordance with past industry practice, which might be categorized as hazardous substances or wastes, and (ii) the cleanup of sites used or operated by CEMEX, Inc., including discontinued operations, regarding the disposal of hazardous substances or wastes, either individually or jointly with other parties. Most of the proceedings are in the preliminary stage, and a final resolution might take several years. For purposes of recording the provision, CEMEX, Inc. considers that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. Based on information available to date, CEMEX, Inc. does not believe it will be required to spend significant sums on these matters, in excess of the amounts previously recorded. The ultimate cost that might be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work, and negotiations with or litigation against potential sources of recovery have been completed.

CEMEX Construction Materials Florida, LLC f/k/a Rinker Materials of Florida, Inc., a subsidiary of CEMEX, Inc., holds one federal quarry permit and is the beneficiary of one of 10 other federal quarrying permits granted for the Lake Belt area in South Florida. The permit held by CEMEX Florida covers CEMEX Florida's SCL and FEC quarries. CEMEX Florida's Krome quarry is operated under one of the other federal quarry permits. The FEC quarry is the largest of CEMEX Floridas' quarries measured by volume of aggregates mined and sold. CEMEX Florida's Miami cement mill is located at the SCL quarry and is supplied by that quarry. A ruling was issued on March 22, 2006 by a judge of the U.S. District Court for the Southern District of Florida in connection with litigation brought by environmental groups concerning the manner in which the permits were granted. Although not named as a defendant, CEMEX Florida has intervened in the proceedings to protect its interests. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the relevant governmental agencies in connection with the issuance of the permits. The judge remanded the permits to the relevant governmental agencies for further review, which review the governmental agencies have indicated in a recent announcement should take until mid February 2009 to conclude. The judge also conducted further proceedings to determine the activities to be conducted during the remand period. In July 2007, the judge issued a ruling that halted certain quarrying operations at three non-CEMEX Florida quarries. The judge left in place CEMEX Florida's Lake Belt permits until

the relevant government agencies complete their review. In a May 2008 ruling, the federal appellate court determined that the district court judge did not apply the proper standard of review to the permit issuance decision of the governmental agency, vacated the district court's prior order, and remanded the proceeding to the district court to apply the proper standard of review; this review remains pending before the district court judge. If the Lake Belt permits are ultimately set aside or quarrying operations under them restricted, CEMEX Florida will need to source aggregates, to the extent available, from other locations in Florida or import aggregates. This would likely affect profits from our Florida operations. Any adverse impacts on the Florida economy arising from the cessation or significant restriction of quarrying operations in the Lake Belt could also have a material adverse effect on our financial results.

Europe

In Great Britain, future expenditure on closed and current landfill sites has been assessed and quantified over the period in which the sites are considered to have the potential to cause environmental harm, generally consistent with the regulator view of up to 60 years from the date of closure. The assessed expenditure relates to the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure. The costs have been quantified on a net present value basis in the amount of approximately £122 million, and an accounting provision for this sum has been made at December 31, 2007.

In 2003, the European Union adopted a directive implementing the Kyoto Protocol on climate change and establishing a greenhouse gas emissions allowance trading scheme within the European Union. The directive requires Member States to impose binding caps on carbon dioxide emissions from installations involved in energy activities, the production and processing of ferrous metals, the mineral industry (including cement production) and the pulp, paper or board production business. Under this scheme, companies with operations in these sectors receive from the relevant Member States allowances that set limitations on the levels of greenhouse gas emissions from their installations. These allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that are not reaching their emissions objectives. Companies can also use credits issued from the use of the flexibility mechanisms under the Kyoto protocol to fulfill their European obligations. These flexibility mechanisms provide that credits (equivalent to allowances) can be obtained by companies for projects that reduce greenhouse gas emissions in emerging markets. These projects are referred to as Clean Development Mechanism ("CDM") or joint implementation projects depending on the countries where they take place. Failure to meet the emissions caps is subject to heavy penalties.

Companies can also use, up to a certain level, credits issued under the flexible mechanisms of the Kyoto protocol to fulfill their European obligations. Credits for Emission Reduction projects obtained under these mechanisms are recognized, up to a certain level, under the European emission trading scheme as allowances. To obtain these emission reduction credits, companies must comply with very specific and restrictive requirements from the United Nations Convention on Climate Change (UNFCC).

As required by directive, each of the Member States established a National Allocations Plan, or NAP, setting out the allowance allocations for each industrial facility for Phase I, from 2005 to 2007. Based on the NAPs established by the Member States of the European Union for the 2005 to 2007 period and our actual production, on a consolidated basis after trading allowances between our operations in countries with a deficit of allowances and our operations in countries with an excess of allowances, and after some external operations, Borrower's Subsidiaries had a surplus of allowances of approximately 1,050,054 tons of carbon dioxide in this Phase I.

For Phase II, comprising 2008 through 2012, however, there has been a reduction in the allowances granted by the Member States that have already approved their NAP, which may result in a consolidated deficit in our carbon dioxide allowances during the period. We believe we may be able to reduce the impact of any deficit by either reducing carbon dioxide emissions in our facilities or by obtaining additional emission credits through the implementation of CDM projects. If we are not successful in implementing emission reductions in our facilities or obtaining credits from CDM projects, we may have to purchase a significant amount of emission credits in the market, because CEMEX has already sold a substantial amount of allowances for Phase II, the cost of which may have an impact on our operating results. As of December 1, 2008, the market value of carbon dioxide allowances for Phase II was approximately 15.45 € per ton. CEMEX is taking all the measures to minimize our exposure to this market while assuring the supply of our products to our clients.

The Spanish NAP has been finally approved by the Spanish Government, reflecting the conditions that were set forth by the European Commission. The allocations made to our installations allow us to foresee certain availability of allowances, nevertheless, there remains the uncertainty regarding the allocations that, against the reserve for new entrants, shall be requested for the new CEMEX cement plant in Andorra (Teruel), currently under construction, and that it is scheduled to start operating in 2010.

On May 29, 2007, the Polish government filed an appeal before the Court of First Instance in Luxemburg regarding the European Commission's rejection of the initial version of the Polish NAP. The Court has denied Poland's request for a quick path verdict in the case, keeping the case in the regular proceeding path, therefore, the Polish government has started to prepare Polish internal rules on division of allowance at the level already accepted by the European Commission. Seven major Polish cement producers, representing 98% of Polish cement production (including CEMEX Polska), have also filed seven separate appeals before the Court of First Instance regarding the European Commission's rejection. On September 29, 2008 the Court of the First Instance issued an order rejecting CEMEX Polska's appeal without going into the merit of the case. As of December 4, 2008 the final version of the Polish NAP has not been cleared by the Commission; CEMEX's has not determined the impact this may have on CEMEX¨s position in the country.

Tax Matters

Pursuant to amendments to the Mexican income tax law (*Ley del Impuesto sobre la Renta*), which became effective on January 1, 2005, Mexican companies with direct or indirect

investments in entities incorporated in foreign countries whose income tax liability in those countries is less than 75% of the income tax that would be payable in Mexico will be required to pay taxes in Mexico on passive income such as dividends, royalties, interest, capital gains and rental fees obtained by such foreign entities, provided that the income is not derived from entrepreneurial activities in such countries (income derived from entrepreneurial activities is not subject to tax under these amendments). We filed two motions in the Mexican federal courts challenging the constitutionality of the amendments. On June 29, 2006, we obtained a favorable ruling from the Mexican federal court stating that the amendments were unconstitutional. The Mexican tax authority appealed the ruling, and the proceeding was attracted by the Mexican Supreme Court of Justice. On September 9, 2008, the Mexican Supreme Court ruled against CEMEX's constitutional challenge of the controlled foreign corporation tax rules in effect in Mexico for tax years 2005 to 2007. Since the Supreme Court's decision does not pertain to an amount of taxes due or other tax obligations, CEMEX will self-assess any taxes due through the submission of amended tax returns. CEMEX has not yet determined the amount of tax or the periods affected. Based on a preliminary estimate, CEMEX believes this amount will not be material, but no assurance can be given that additional analysis will not lead to a different conclusion. If the tax authorities do not agree with CEMEX's self-assessment of the taxes due for past periods, they may assess additional amounts of taxes past due, which may be material and may impact CEMEX cash flows.

The Mexican Congress approved several amendments to the Mexican Asset Tax Law (Ley del Impuesto al Activo) that came into effect on January 1, 2007. As a result of such amendments, all Mexican corporations, including us, are no longer allowed to deduct their liabilities from the calculation of the asset tax. We believe that the Asset Tax Law, as amended, is against the Mexican constitution. We have challenged the Asset Tax Law through appropriate judicial action (juicio de amparo).

The asset tax was imposed at a rate of 1.25% on the value of most of the assets of a Mexican corporation. The asset tax was "complementary" to the corporate income tax (*impuesto sobre la renta*) and, therefore, was payable only to the extent it exceeded payable income tax.

Philippines

As of November 30, 2008, the Philippine Bureau of Internal Revenue (BIR), had assessed APO, Solid, IQAC, ALQC and CSPI, our operating subsidiaries in the Philippines, for deficiency taxes covering taxable years 1998-2005 amounting to a total of approximately 1,994 million Philippine Pesos (approximately U.S.$40.727 million as of November 30, 2008, based on an exchange rate of Philippine Pesos 48.96 to U.S.$1.00, which was the Philippine Peso/Dollar exchange rate on November 30, 2008 as published by the Bangko Sentral ng Pilipinas, the central bank of the Republic of the Philippines).

The majority of the tax assessments result primarily from the disallowance of APO's income tax holiday incentives for taxable years 1999 to 2001 (approximately Philippine Pesos 1,078 million or U.S.$22.1 million as of November 30, 2008, based on an exchange rate of Philippine Pesos 48.96 to U.S.$1.00). We have contested the BIR's assessment, arising from the disallowance of the ITH incentive, with the Court of Tax Appeals (CTA). The initial Division

ruling of the CTA was unfavorable, but is subject to further appeal with the CTA as a whole. The assessment is now currently on appeal with the CTA En Banc. A motion was filed with the CTA, requesting the court to hold APO totally not liable for alleged income tax liabilities for all the years covered and to this end cancel and withdraw APO's deficiency income tax assessments for taxable years 1999, 2000 and 2001 on the basis of APO's availment of the tax amnesty described below. As of November 30, 2008, resolution on the aforementioned motion is still pending.

CEMEX Venezuelan Nationalization

In furtherance of Venezuela's announced policy to nationalize certain sectors of the economy, on June 18, 2008, the Nationalization Decree was promulgated, mandating that the cement production industry in Venezuela be reserved for the Government of Venezuela and ordering the conversion of foreign-owned cement companies, including CEMEX Venezuela, into state-controlled companies with Venezuela holding an equity interest of at least 60%. The Nationalization Decree provided for the formation of a transition committee to be integrated with the board of directors of the relevant cement company to guaranty the transfer of control over all activities of the relevant cement company to Venezuela by December 31, 2008. The Nationalization Decree further established a deadline of August 17, 2008 for the shareholders of foreign-owned cement companies, including CEMEX Venezuela, to reach an agreement with the Government of Venezuela on the compensation for the nationalization of their assets. The Nationalization Decree also provided that this deadline may be extended by mutual agreement of the Government of Venezuela and the relevant shareholder. The transition committee, which was to be coordinated by the Ministry of Basic Industries (MIBAN), was never formally instituted and MIBAN never acted in the process, but instead Petroleos de Venezuela (PDVSA) conducted all the conversations.

CEMEX Venezuela and the Government did not reach agreement by the August 17 deadline, and on August 18 the Expropriation Decree was issued by the President of Venezuela, with PDVSA appointed to conduct the expropriation proceedings. Although these proceedings had not yet commenced, PDVSA officials headed a group of PDVSA workers, with the support of the public force, to take over all the facilities of CEMEX Venezuela on August 17. Since no agreement has been reached with the Venezuelan Government as to the compensation to be paid, the Dutch companies that control CEMEX Venezuela filed an arbitration request before the International Center for the Settlement of Investment Disputes against the Government of Venezuela, which request has been registered and the tribunal is in the process of being formed.

As of December 31, 2007, CEMEX Venezuela, S.A.C.A. was the holding entity of several of CEMEX's investments in the region, including CEMEX's operations in the Dominican Republic and Panama, as well as CEMEX's minority investment in Trinidad. In the wake of statements by the Government of Venezuela about the nationalization of assets in Venezuela, in April 2008, CEMEX concluded the transfer of all material non-Venezuelan investments to CEMEX España for approximately U.S.$355 million plus U.S.$112 million of net debt, having distributed all accrued profits from the non-Venezuelan investments to the stockholders of CEMEX Venezuela amounting to approximately U.S.$132 million. At this time, the net impact or the outcome of the nationalization on CEMEX's consolidated financial results cannot be reasonably estimated. As of June 30, 2008 the net assets of CEMEX's Venezuelan operations under Mexican FRS were approximately [U.S.$821.7]. Since August 2008, CEMEX no longer consolidates the financial results of CEMEX Venezuela.

On June 13, 2008, the Venezuelan securities authority initiated an administrative proceeding against CEMEX Venezuela, claiming that the company did not sufficiently inform its shareholders and the securities authority in connection with the transfer of the non-Venezuelan assets described above. The Venezuelan authority determined that CEMEX Venezuela did not comply with its disclosure obligations and imposed fines on the company, which we do not consider material, and requested the attorney general's office to review the case to determine if such non-disclosure also constituted criminal infringement.

Other Legal Proceedings

On August 5, 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia, claiming that it was liable along with the other members of the *Asociación Colombiana de Productores de Concreto*, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system of Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads in a manner which guarantees their service during the 20-year period for which they were originally designed, and estimate that the cost of such repair will be approximately U.S.$45 million. The lawsuit was filed within the context of a criminal investigation of two ASOCRETO officers and other individuals, alleging that the ready-mix concrete producers were liable for damages if the ASOCRETO officers were criminally responsible. The court completed the evidentiary stage, and on August 17, 2006 dismissed the charges against the members of ASOCRETO. The other defendants (one ex-director of the Distrital Institute of Development, the legal representative of the constructor and the legal representative of the contract auditor) were formally accused. The decision was appealed, and on December 11, 2006, the decision was reversed and the two ASOCRETO officers were formally accused as participants (determiners) in the execution of a state contract without fulfilling all legal requirements thereof. The first public hearing took place on November 20, 2007. In this hearing the judge dismissed an annulment petition filed by the ASOCRETO officers. The petition was based on the fact that the officers were formally accused of a different crime than the one they were being investigated for. This decision was appealed, but the decision was confirmed by the Superior Court of Bogota. On January 21, 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called El Tujuelo, as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required within a period of 10 days to deposit with the Court in cash CoP$337,800 million (approximately U.S.$195 million as of June 4, 2008, based on an exchange rate of CoP1730 to U.S.$1.00, which was the Colombian Peso/Dollar exchange rate on June 4, 2008, as published by the *Banco de la República de Colombia*, the central bank of Colombia), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed

CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. The measure does not affect the normal activity of the quarry. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.

On August 5, 2005, Cartel Damages Claims, SA, or CDC, filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG and other German cement companies. CDC is seeking €102 million in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002, which entities had assigned their claims to CDC. CDC is a Belgian company established by two lawyers in the aftermath of the German cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office with the express purpose of purchasing potential damages claims from cement consumers and pursuing those claims against the cartel participants. In January 2006, another entity assigned alleged claims to CDC, and the amount of damages being sought by CDC increased to €113.5 million plus interest. On February 21, 2007, the District Court of Düsseldorf decided to allow this lawsuit to proceed without going into the merits of this case by issuing an interlocutory judgment. All defendants appealed. The appeal hearing took place on April 22, 2008, and the appeal was dismissed on May 14, 2008. The lawsuit will proceed at the level of court of first instance. As of September 30, 2008 only one defendant has decided to file a complaint before the Federal High Court; this will delay the case from proceeding at the level of first instance to an extent we cannot assess today. In the meantime, CDC had acquired new assigners and announced an increase in the claim to €131 million. As of November 30, 2008, we had accrued liabilities regarding this matter for a total amount of approximately €20 million.

After an extended consultation period, in April 2006, the cities of Kaštela and Solin in Croatia published their respective Master (physical) Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to Dalmacijacement, our subsidiary in Croatia, by the Government of Croatia in September 2005. During the consultation period, Dalmacijacement submitted comments and suggestions to the Master Plans, but these were not taken into account or incorporated into the Master Plan by Kaštela and Solin. Most of these comments and suggestions were intended to protect and preserve the rights of Dalmacijacement´s mining concession granted by the Government of Croatia in September 2005. Immediately after publication of the Master Plans, Dalmacijacement filed a series of lawsuits and legal actions before the local and federal courts to protect its acquired rights under the mining concessions. The legal actions taken and filed by Dalmacijacement were as follows: (i) on May 17, 2006, a constitutional appeal before the constitutional court in Zagreb, seeking a declaration by the court concerning Dalmacijacement's constitutional claim for decrease and obstruction of rights earned by investment, and seeking prohibition of implementation of the Master Plans. This cases is currently under review by the court in Croatia, and it is expected that these proceedings will continue for several years before resolution; (ii) on May 17, 2006, a possessory action against the cities of Kaštela and Solin seeking the enactment of interim measures prohibiting implementation of the Master Plans and including a request to implead the Republic of Croatia into the proceeding on our side. The municipal court in Solin issued a first instance judgment dismissing our possessory action. We

filed an appeal against that judgment. The appeal has been resolved by the Solin County Court, affirming the judgment and rendering it final. The Municipal Court in Kaštela has issued a first instance judgment dismissing our possessory action. We filed an appeal against said judgment, which has since been resolved by the Kaštela Country Court, affirming the judgment and rendering it final; (iii) on May 17, 2006, an administrative proceeding before the State Lawyer, seeking a declaration from the Government of Croatia confirming that Dalmacijacement acquired rights under the mining concessions. Dalmacijacement received State Lawyer's opinion which confirms the Dalmacijacement's acquired rights according to the previous decisions ("old concession"). The Administrative Court in Croatia has ruled in favor of Dalmacijacement, validating the legality of the mining concession granted to Dalmacijacement by the Government of Croatia. This decision is final. Currently it is difficult for Dalmacijacement to ascertain the approximate economic impact of these measures by Kaštela and Solin).

Club of Environmental Protection, a Latvian environmental protection organization (hereinafter the "Applicant"), has initiated a court administrative proceeding against the decision made by the Environment State Bureau (hereinafter the "Defendant) in order to amend the environmental pollution permit (the "Permit") for the Broceni Cement Plant in Latvia, owned by CEMEX SIA (the "Disputed Decision"). CEMEX SIA was invited to participate in the court proceedings as a third party, whose rights and legal interest may be infringed by the relevant administrative act. On June 5, 2008 the Court rendered its judgment, where it satisfied the Claimant's claim and revoked the Disputed Decision stating that it is illegal because Defendant failed to perform public inquiry in accordance with legal regulations. The judgment has been appealed by both the Defendant and CEMEX SIA before the Court of Appeal and the court will hear the case in February 24, 2009. The appellate procedure will not suspend the operation of the Permit which will remain valid throughout the court proceedings, hence CEMEX SIA is allowed to continue to perform its activities. The Permit subject to this proceeding was issued for the existing cement line, which will be fully substituted in the first half of 2009 by a new cement line currently under construction.

SCHEDULE 9.04

Qualified Receivables Transactions

[EXCEL FILE TO BE POSTED ON DEBT DOMAIN]

Schedule 9.04

Existing Qualified Receivables Transactions

	Description	Counterparty	Origin	Currency	Amount in million	Amount in USD million	Maturity
CEMEX France S.A.S.	Amended and Restated Receivables Assignment Agreement (as amended)	ING Bank (France) S.A.	May 31, 2006	EURO	160,000,000	201,840,000	May 31, 2009
Cemex Inc.	Amended and Restated Receivables Purchase Agreement (as amended)	JP Morgan Chase Bank, N.A./ Lloyds TSB Bank plc	March 20, 2008	USD	500,000,000	500,000,000	March 20, 2009
Cemex Mexico, S.A. de C.V.	Agreement for the Sale and Transfer of Ownership of Designated Receivables	WLB Funding, S.A. de CM., SOFOM, E.N.R.	January 9, 2008	MXN	2,298,000,000	168,946,985	January 9, 2009
Cemex Espana, S.A.	Amended and Restated Receivables Purchase Agreement (as amended)	WestLB AG	May 9, 2006	EURO	300,000,000	378,450,000	May 9, 2011
TOTAL						**1,249,236,985**	

Exchange rates as of Dec 1, 2008 to be updated one day before agreement is entered

US$/Euro 1.2615

US$/MXN 0.0735

EXECUTION VERSION

EXHIBIT 4.4.5

FIFTH AMENDMENT TO CREDIT AGREEMENT

This Fifth Amendment to the Credit Agreement (as defined below), dated as of January 22, 2009 (this " Amendment No. 5"), is entered into by and among **CEMEX, S.A.B. de C.V.**, a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States (formerly known as "CEMEX, S.A. de C.V.") (the "Borrower"), **CEMEX MÉXICO, S.A. de C.V.**, a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States, **EMPRESAS TOLTECA DE MÉXICO, S.A. de C.V.**, a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States (each a " Guarantor" and together, the "Guarantors"), the several Lenders party thereto, and **ING CAPITAL LLC**, as administrative agent (in such capacity, the "Administrative Agent").

RECITALS

A. The Borrower, the Guarantors, the several Lenders party thereto, the Administrative Agent, Barclays Bank plc, New York Branch, as an Issuing Bank and Documentation Agent, ING Bank N.V., as an Issuing Bank, Barclays Capital, The Investment Banking Division of Barclays Bank plc, as Joint Bookrunner, Citigroup Global Markets Inc., as Joint Bookrunner and Syndication Agent, and ING Capital LLC, as Joint Bookrunner, are parties to that certain credit facility in the amount of U.S.$700,000,000, dated as of June 6, 2005, as amended by Amendment No. 1 to the Credit Agreement, dated as of June 21, 2006, the Amendment and Waiver Agreement No. 2, dated as of December 1, 2006, the Amendment and Waiver Agreement No. 3, dated as of May 9, 2007, and Amendment No. 4 to the Credit Agreement, dated as of December 19, 2008 (as now or hereafter amended, restated, waived or otherwise modified, the "Credit Agreement").

B. The Borrower has requested that the Administrative Agent and the Lenders consent to the following amendment to the Credit Agreement.

C. This Amendment No. 5 shall constitute a Transaction Document and these Recitals shall be construed as part of this Amendment No. 5.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, and of the Loans and other extensions of credit heretofore, now or hereafter made to, or for the benefit of, the Borrower by the Lenders, the Borrower, the Guarantors, the Administrative Agent, and the Lenders hereby agree as follows:

1. Definitions. Except to the extent otherwise specified herein, capitalized terms used in this Amendment No. 5 shall have the same meanings ascribed to them in the Credit Agreement.

2. Amendments. Subject to Section 4, the Credit Agreement is hereby amended as follows:

2.1 The definition for "EBITDA" in Section 1.01 ("Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""EBITDA" means, for any period, the sum for the Borrower and its Subsidiaries, determined on a consolidated basis of (a) operating income (*utilidad de operación*), (b) cash interest income and (c)

depreciation and amortization expense, in each case determined in accordance with Mexican GAAP, subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA for any applicable period pursuant to any determination of the Consolidated Net Debt / EBITDA Ratio (but not the Consolidated Fixed Charge Coverage Ratio): (A) (i) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Disposition, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such applicable period (but when the Material Disposition is by way of lease, income received by the Borrower or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving *pro forma* effect thereto (including the incurrence or assumption of any Debt) as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any Person that subsequently shall have become a Subsidiary or was merged or consolidated with the Borrower or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Disposition or Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Borrower or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Disposition or Acquisition had occurred on the first day of such applicable period; and (B) all EBITDA for each applicable period ending on or after December 31, 2008 will be recalculated by multiplying each month's EBITDA by the Ending Exchange Rate and dividing the amount obtained thereto by the exchange rate used by the Borrower in preparation of its monthly financial statements in accordance with Mexican GAAP to convert U.S.$ into Mexican pesos (such recalculated EBITDA being the " Recalculated EBITDA"), provided, that, the Required Lenders shall have the option, with respect to any Reference Period ending after December 31, 2009, to discontinue the incorporation of Recalculated EBITDA into the Consolidated Net Debt/EBITDA Ratio (the " Discontinue Option"). The Required Lenders may exercise the Discontinue Option upon notice to the Administrative Agent, who shall, acting upon the instructions of the Required Lenders, notify the Borrower of such exercise in writing (the "Notice of Discontinuance") at least thirty (30) days prior to the end of such Reference Period. Subject to the foregoing notice requirements, such Discontinue Option shall be effective for each Reference Period ending after the date of such Notice of Discontinuance to the Borrower as set forth herein."

2.2 The definition for "Ending Exchange Rate" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Ending Exchange Rate" means the exchange rate at the end of a Reference Period for converting U.S.$ into Mexican pesos, used by the Borrower and its auditors in preparation of the Borrower's financial statements in accordance with Mexican GAAP."

2.3 The definition of "U.S.$/Euro EBITDA" in Section 1.01 (" Certain Definitions") shall be deleted in its entirety.

3. Representations and Warranties. The Borrower and each of the other Credit Parties hereby represent and warrant to the Administrative Agent and the Lenders that:

3.1 The representations and warranties of the Borrower contained in the Credit Agreement are true and correct as of the date of this Amendment No. 5; provided, however, that with

respect to Section 6.11 ("Ownership of Property"), the representations and warranties are true and correct, other than as is set forth in the Risk Factors in the Borrower's Form 20-F for the year ended December 31, 2007 filed with the SEC and updated in the Borrower's Form 6-K filed on August 19, 2008 with the SEC, in each case with respect to CEMEX Venezuela S.A.C.A.

3.2 The representations and warranties of the Guarantors contained in the Credit Agreement are true and correct as of the date of this Amendment No. 5.

3.3 The execution, delivery and performance by the Borrower and each of the other Credit Parties of this Amendment No. 5 has been duly authorized by all necessary corporate action, and this Amendment No. 5 constitutes the legal, valid and binding obligation of the Borrower and each of the other Credit Parties enforceable against the Borrower and each of the other Credit Parties in accordance with its terms, except as enforceability may be limited by applicable *concurso mercantil,* bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally or general equity principles.

3.4 The execution, delivery and performance of this Amendment No. 5 does not, and will not, contravene or conflict with any provision of (i) any Requirement of Law, (ii) any judgment, decree or order, or (iii) the certificate or articles of incorporation or by-laws or other constituent documents of the Borrower and the Credit Parties, and does not, and will not, contravene or conflict with, or cause any Lien to arise under, any provision of any Contractual Obligation applicable to the Borrower and the Credit Parties.

3.5 No Default or Event of Default exists under the Credit Agreement or any other Transaction Document or will exist after or be triggered by the execution, delivery and performance of this Amendment No. 5. In addition, the Borrower and each of the other Credit Parties hereby represent, warrant and reaffirm that the Credit Agreement, the Notes and each of the other Transaction Documents remain in full force and effect.

4. Conditions Precedent to Effectiveness. The effectiveness of the amendments set forth in Section 2 hereof are in each instance subject to the satisfaction of each of the following conditions precedent (the date on which all such conditions precedent are satisfied or waived being the " Amendment No. 5 Effective Date"):

4.1 Amendment No. 5. This Amendment No. 5 shall have been duly authorized, executed and delivered by each of the Borrower, the Guarantors and the Required Lenders, and acknowledged by the Administrative Agent (which shall be a purely ministerial action).

4.2 No Default. After giving effect to this Amendment No. 5, no Default or Event of Default shall have occurred and be continuing, or would result from the execution or effectiveness of this Amendment No. 5.

4.3 No Material Adverse Effect. No Material Adverse Effect has occurred since December 31, 2007 (excluding the financial condition and events previously disclosed in (i) the Borrower's filings made with the SEC or the *Bolsa Mexicana de Valores, S.A.B de C.V.* after December 31, 2007; or (ii) in the Borrower's unaudited financial statements for each of the first three fiscal periods of 2008).

4.4 Solvency. The Borrower and each Guarantor is, and after giving effect to each of the transactions contemplated by this Amendment No. 5 and the Transaction Documents will be, Solvent.

4.5 Miscellaneous. The Administrative Agent and the Lenders shall have received such other agreements, instruments and documents as the Administrative Agent or the Lenders may reasonably request.

4.6 Other Facilities. This Amendment shall not be effective until the debt obligations set forth on Exhibit A attached hereto have been amended in form and substance reasonably satisfactory to the Lenders and the Borrower shall have notified the Administrative Agent of such modification in writing.

5. Reference to and Effect Upon the Credit Agreement and other Transaction Documents .

5.1 Full Force and Effect. Except as specifically provided herein, the Credit Agreement, the Notes and each other Transaction Document shall remain in full force and effect and each Note, Transaction Document, and the Credit Agreement is hereby ratified and confirmed by the Borrower.

5.2 No Waiver. The execution, delivery and effect of this Amendment No. 5 shall be limited precisely as written and shall not be deemed to (i) be a consent to any waiver of any term or condition, or to any amendment or modification of any term or condition (except as specifically provided herein) of the Credit Agreement, the Notes or any other Transaction Document, (ii) prejudice any right, power or remedy which the Administrative Agent or any Lender now has or may have in the future under or in connection with the Credit Agreement or any other Transaction Document or (iii) constitute a novation of any of the obligations under the Credit Agreement, the Notes, and the other Transaction Documents.

5.3 Certain Terms. Each reference in the Credit Agreement to "this Agreement", "hereunder", "hereof", "herein" or any other word or words of similar import shall mean and be a reference to the Credit Agreement as amended hereby, and each reference in any other Transaction Document to the Credit Agreement or any word or words of similar import shall be and mean a reference to the Credit Agreement as amended hereby.

6. Counterparts. This Amendment No. 5 may be executed in any number of counterparts, each of which when so executed shall be deemed an original but all such counterparts shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment No. 5 by telecopier shall be as effective as delivery of a manually executed counterpart signature page to this Amendment No. 5.

7. Costs and Expenses. As provided in the Credit Agreement, the Borrower shall pay the reasonable fees, costs and expenses incurred by the Administrative Agent in connection with the preparation, execution and delivery of this Amendment No. 5 (including, without limitation, attorneys' fees).

8. GOVERNING LAW. THIS AMENDMENT NO. 5 SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK.

9. Headings. Section headings in this Amendment No. 5 are included herein for convenience of reference only and shall not constitute a part of this Amendment No. 5 for any other purpose.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

CEMEX, S.A.B. de C.V.,
as Borrower

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-In-Fact

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

CEMEX MÉXICO, S.A. de C.V.,
as a Guarantor

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-In-Fact

[Signature Page Amendment No. 5 to $700mm Facility – Cemex México, S.A. de C.V.]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

EMPRESAS TOLTECA de MÉXICO, S.A. de C.V.,
as a Guarantor

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-In-Fact

[Signature Page Amendment No. 5 to $700mm Facility – Empresas Tolteca de México, S.A. de C.V]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

ING CAPITAL LLC,
as Administrative Agent

By /s/ Vincente M. León
Name: Vincente M. León
Title: Director

[Signature Page Amendment No. 5 to $700mm Facility – ING Capital LLC]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

BARCLAYS BANK PLC,
as Lender

By /s/ Nicholas A. Bell
Name: Nicholas A. Bell
Title: Director

[Signature Page Amendment No. 5 to $700mm Facility – Barclays Bank, PLC, New York Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

CITIBANK, N.A., NASSAU, BAHAMAS BRANCH,
as Lender

By /s/ Leslie Munroe
Name: Leslie Munroe
Title: Attorney-in-Fact

[Signature Page Amendment No. 5 to $700mm Facility – Citibank, N.A., Nassau, Bahamas Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

BANCO SANTANDER, S.A., NEW YORK BRANCH,
as a Lender

By /s/ Jorge Saavedra
Name: Jorge Saavedra
Title: Executive Director

By /s/ Jesus Lopez
Name: Jesus Lopez
Title: Vice President

[Signature Page Amendment No. 5 to $700mm Facility – Banco Santander, S.A., New York Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

THE BANK OF NOVA SCOTIA,
as a Lender

By /s/ Marian Lawson
Name: Marian Lawson
Title: Managing Director

[Signature Page Amendment No. 5 to $700mm Facility – The Bank of Nova Scotia]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

BANCO BILBAO VIZCAYA
ARGENTARIA, S.A., GRAND CAYMAN BRANCH,
as a Lender

By /s/ Rodolfo Hare
Name: Rodolfo Hare
Title: Vice President
Global Corporate Banking

By /s/ Guilherme Gobbo
Name: Guilherme Gobbo
Title: Vice President
Global Corporate Banking

[Signature Page Amendment No. 5 to $700mm Facility – Banco Bilbao Vizcaya Argentaria, S.A., Grand Cayman Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

BNP PARIBAS PANAMA BRANCH,
as a Lender

By /s/ Raul Ardito Barletta
Name: Raul Ardito Barletta
Title: Executive Vice President

By /s/ Christian Giraudon
Name: Christian Giraudon
Title: General Manager

[Signature Page Amendment No. 5 to $700mm Facility – BNP Paribas Panama Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

CALYON NEW YORK BRANCH,
as a Lender

By /s/ Jesus Tueme
Name: Jesus Tueme
Title: Managing Director

By /s/ Kevin Flood
Name: Kevin Flood
Title: Vice President

[Signature Page Amendment No. 5 to $700mm Facility – Calyon New York Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

ING BANK N.V. (ACTING THROUGH ITS CURACAO BRANCH),
as a Lender

By /s/ H.F.J. (Freddy) ten Holt
Name: H.F.J. (Freddy) ten Holt
Title: Chief Financial Officer

By /s/ A.C. Maduro
Name: A.C. Maduro
Title: Risk Manager

[Signature Page Amendment No. 5 to $700mm Facility – ING Bank N.V. (Acting through its Curacao Branch)]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

WACHOVIA BANK, NATIONAL ASSOCIATION,
as a Lender

By /s/ Kathleen H. Reedy
Name: Kathleen H. Reedy
Title: Managing Director

[Signature Page Amendment No. 5 to $700mm Facility – Wachovia Bank, National Association]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

BAYERISCHE LANDESBANK, NEW YORK BRANCH,
as a Lender

By /s/ Nikolai von Mengden
Name: Nikolai von Mengden
Title: Senior Vice President

By /s/ Gina Hoey
Name: Gina Hoey
Title: Vice President

[Signature Page Amendment No. 5 to $700mm Facility – Bayerische Landesbank, New York Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

SOCIÉTÉ GÈNÉRALE,
as a Lender

By /s/ Ambrish Thanawala
Name: Ambrish Thanawala
Title: Managing Director

[Signature Page Amendment No. 5 to $700mm Facility – Société Gènérale]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

BANK OF AMERICA, N.A.,
as a Lender

By /s/ Emilio Arriaga
Name: Emilio Arriaga
Title: Vice President

[Signature Page Amendment No. 5 to $700mm Facility – Bank of America, N.A.]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.,
as a Lender

By /s/ Makoto Kinoshita
Name: Makoto Kinoshita
Title: VP & Manager

[Signature Page Amendment No. 5 to $700mm Facility – The Bank of Tokyo-Mitsubishi UFJ, Ltd.]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

JPMORGAN CHASE BANK, N.A.,
as a Lender

By /s/ Pablo Ogarrio
Name: Pablo Ogarrio
Title: Vice President

[Signature Page Amendment No. 5 to $700mm Facility – JPMorgan Chase Bank, N.A.]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

CITIBANK (BANAMEX USA),
as a Lender

By /s/ Jeff Healy
Name: Jeff Healy
Title: Senior Vice President

By /s/ Jorge Figueroa
Name: Jorge Figueroa
Title: Executive Vice President

[Signature Page Amendment No. 5 to $700mm Facility – Citibank (Banamex USA)]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

DEUTSCHE BANK AG, NEW YORK BRANCH,
as a Lender

By /s/ Roy Ellis
Name: Roy Ellis
Title: Managing Director

By /s/ Jorge Otero
Name: Jorge Otero
Title: Director

[Signature Page Amendment No. 5 to $700mm Facility – Deutsche Bank AG, New York Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

DRESDNER BANK AG, ACTING THROUGH ITS LENDING OFFICE DRESDNER BANK AG, NEW YORK BRANCH,
as a Lender

By /s/ Brian Smith
Name: Brian Smith
Title: Managing Director

By /s/ Mark McGuigan
Name: Mark McGuigan
Title: Vice President

[Signature Page Amendment No. 5 to $700mm Facility – Dresdner Bank AG]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

MIZUHO CORPORATE BANK, LTD.,
as a Lender

By /s/ David Napoli Costa
Name: David Napoli Costa
Title: Deputy General Manager

[Signature Page Amendment No. 5 to $700mm Facility – Mizuho Corporate Bank, Ltd.]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

STANDARD CHARTERED BANK,
as a Lender

By /s/ Natalia Cucalon
Name: Natalia Cucalon
Title: Associate Director

By /s/ Maria L. Garcia
Name: Maria L. Garcia
Title: Credit Documentation Manager

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

INTESA SANPAOLO S.p.A., NEW YORK BRANCH
as a Lender

By /s/ Barbara J. Bassi
Name: Barbara J. Bassi
Title: Vice President

By /s/ [illegible]
Name: [illegible]
Title:

[Signature Page Amendment No. 5 to $700mm Facility – Intesa Sanpaolo S.p.A.]

EXHIBIT A

(1) Credit Agreement, dated as of May 31, 2005, by and among CEMEX S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V. and Empresas Tolteca de México S.A. de C.V., as guarantors, the several lenders party thereto, Barclays Bank PLC, New York Branch, as administrative agent, Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner, for an aggregate principal amount of U.S.$1,200,000,000, as amended by Amendment No. 1 thereto, dated as of June 19, 2006, the Amendment and Waiver Agreement, dated as of November 30, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Limited Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of December 19, 2008.

(2) Amended and Restated Facilities Agreement, dated as of December 19, 2008, by and among New Sunward Holding B.V., as borrower, CEMEX S.A.B. de C.V., CEMEX México S.A. de C.V. and Empresas Tolteca de México S.A. de C.V., as original guarantors, Banco Bilbao Vizcaya Argentaria, S.A., BNP Paribas and Citigroup Global Markets, Inc., as arrangers, and Citibank, N.A. as agent and on behalf of the finance parties, for an aggregate principal amount of U.S.$700,000,000.

(3) Senior Unsecured Maturity Loan "A" Agreement, dated as of December 31, 2008, by and among NSH, as borrower, CEMEX S.A.B. de C.V., and CEMEX México S.A. de C.V., as guarantors, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto, for an aggregate principal amount of U.S.$525,000,000.

(4) Senior Unsecured Maturity Loan "B" Agreement, dated as of December 31, 2008, by and among NSH, as borrower, CEMEX S.A.B. de C.V., and CEMEX México S.A. de C.V., as guarantors, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto, for an aggregate principal amount of U.S.$525,000,000.

(5) Credit Agreement, dated as of June 25, 2008, among CEMEX S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V., as guarantor, and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch, as lender, for an aggregate principal amount of U.S.$500,000,000, as amended by the First Amendment to the Credit Agreement, dated as of December 19, 2008.

EXHIBIT 4.5

CONFORMED COPY

US$2,300,000,000

AMENDED AND RESTATED FACILITIES AGREEMENT

originally dated 24 September 2004 as amended on 8 November 2004 and 25 February 2005
and as amended and restated on 7 July 2005, 30 June 2006 and on 19 December 2008

for

CEMEX ESPAÑA, S.A.

as Borrower and Guarantor

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.
BANCO SANTANDER, S.A.
CALYON CORPORATE AND INVESTMENT BANK
CITIGROUP GLOBAL MARKETS LIMITED
as Arrangers and Joint Bookrunners

with

CITIBANK INTERNATIONAL PLC
acting as Agent

REVOLVING FACILITIES AGREEMENT

CONTENTS

THIS REVOLVING FACILITIES AGREEMENT is dated 24 September 2004 and made

BETWEEN:

(1) **CEMEX ESPAÑA, S.A.** (the "**Original Borrower**", the "**Company**" and the "**Original Guarantor**");

(2) **BANCO BILBAO VIZCAYA ARGENTARIA, S.A., BANCO SANTANDER, S.A., CALYON CORPORATE AND INVESTMENT BANK** and **CITIGROUP GLOBAL MARKETS LIMITED** as mandated lead arrangers and joint bookrunners (whether acting individually or together the "**Arranger**");

(3) **THE FINANCIAL INSTITUTIONS** listed in Part II (*The Original Lenders*) of Schedule 1 as lenders (the "**Original Lenders**"); and

(4) **CITIBANK INTERNATIONAL PLC** as agent of the other Finance Parties (the "**Agent**").

IT IS AGREED as follows:

SECTION 1
INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Accession Letter**" means a document substantially in the form set out in Schedule 6 (*Form of Accession Letter*).

"**Additional Cost Rate**" has the meaning given to it in Schedule 4 (*Mandatory Cost Formulae*).

"**Additional Borrower**" means a company which becomes an Additional Borrower in accordance with Clause 26 (*Changes to the Obligors*).

"**Additional Guarantor**" means a company which becomes an Additional Guarantor in accordance with Clause 26 (*Changes to the Obligors*).

"**Additional Obligor**" means an Additional Borrower or an Additional Guarantor.

"**Affiliate**" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"**Agent's Spot Rate of Exchange**" means the Agent's spot rate of exchange for the purchase of the relevant currency with the Base Currency in the London foreign exchange market as of 11:00 a.m. on a particular day.

"**Amendment and Restatement Agreement**" means the Global Transfer, Retranching and Amendment Agreement dated 4 July 2005 and entered into between amongst others, the Company, the Arranger, the Original Lenders and the Agent, pursuant to which (amongst other things) this Agreement was amended and restated.

"**Asia Fund**" means CEMEX Asia Holdings Ltd. ("**CAH**") or any other vehicles used by the Company or any other member of the Group to invest, or finance investments already made, in companies involved in or assets dedicated to the cement, concrete or aggregates business in Asia in both cases, such company or vehicle, as applicable, with committed third parties with minority interests other than members of the Group or CEMEX, S.A. de C.V. and its Subsidiaries and with the Company maintaining control of its management.

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Authorised Signatory**" means, in relation to any Obligor, any person who is duly authorised and in respect of whom the Agent has received a certificate signed by a director or another Authorised Signatory of such Obligor setting out the name and signature of such person and confirming such person's authority to act.

"**Availability Period**" means the period from and including the date of the Amendment and Restatement Agreement to and including the date falling 7 days before the Termination Date in respect of each Facility.

"**Available Commitment**" means, in relation to a Facility, a Lender's Commitment under that Facility minus:

(a) the Base Currency Amount of its participation in any outstanding Utilisations under that Facility; and

(b) in relation to any proposed Utilisation, the Base Currency Amount of its participation in any other Utilisations that are due to be made under that Facility on or before the proposed Utilisation Date,

other than any Loans which are due to be repaid or prepaid on or before the proposed Utilisation Date.

"**Available Facility**" means, in relation to a Facility, the aggregate for the time being of each Lender's Available Commitment in respect of that Facility.

"**Base Currency**" means US dollars.

"**Base Currency Amount**" means in relation to a Utilisation, the amount specified in the Utilisation Request delivered by the Company for that Utilisation (or, if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is three Business Days before the Utilisation Date) as adjusted to reflect any repayment, prepayment, consolidation or division of a Utilisation.

"**Borrowers**" means the Original Borrower and any Additional Borrower and " **Borrower**" means any of them.

"**Break Costs**" means the amount (if any) by which:

(a) the interest (excluding the applicable Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

(b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the day of receipt or recovery if a Business Day and if received or recovered before 2 p.m. London time (or, if not, on the Business Day following receipt or recovery) and ending on the last day of the current Interest Period.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Madrid and New York, and:

(a) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, a currency other than euro) the principal financial centre of the country of that currency; or

(b) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, euro) any TARGET Day.

"**Capital Lease**" means any lease that is capitalised on the balance sheet prepared in accordance with Spanish GAAP.

"**CEMEX Group**" means CEMEX Parent and each of its Subsidiaries from time to time.

"**CEMEX Parent**" means CEMEX, S.A.B. de C.V. (previously CEMEX, S.A. de C.V.) , a company (*sociedad anónima bursátil de capital variable*) incorporated in Mexico.

"**CEMEX UK**" means CEMEX UK, a subsidiary of the Company incorporated in England and Wales with company number 05196131 and having its registered office at CEMEX House, Coldharbour Lane, Thorpe, Egham, Surrey TW20 8TD.

"**Commitment**" means a Facility A Commitment, a Facility B Commitment and/or a Facility C Commitment.

"**Compliance Certificate**" means a certificate substantially in the form set out in Schedule 7 (*Form of Compliance Certificate*).

"**Confidentiality Undertaking**" means a confidentiality undertaking substantially in a recommended form of the LMA as set out in Schedule 9 (*Form of LMA Confidentiality Undertaking)* or in any other form agreed between the Company and the Agent.

"**CO2 Emission Rights**" means any emission rights or allowance allocated to a member of the Group to emit one tonne of carbon dioxide equivalent (as defined in the Directive) during a specified period which is valid and/or transferable under the Directive and any other type of allowance recognised by the Directive in connection to the Kyoto Protocol on climate change.

"**Default**" means an Event of Default or any event or circumstance specified in Clause 24 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"**Directive**" means Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the European Community (as amended by Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004).

"**Domestic Lender**" means any Spanish resident credit entity registered in the Special Registries of The Bank of Spain as defined in article 8 of Royal Legislative Decree 4/2004 of 5 March and mentioned in paragraph (c) of Article 59 of Corporate Income Tax Regulations approved by Royal Decree 1777/2004 of 30 July (*Real Decreto 1777/2004 de 30 de julio*) or a permanent establishment of a non-Spanish resident financial entity as defined in article 13.1.a of Royal Legislative Decree 5/2004 of 5 March and mentioned in the second paragraph of Article 8.1 of Non-Resident Income Tax Regulations approved by Royal Decree 1776/2004 of 30 July (*Real Decreto 1776/2004 de 30 julio*).

"**Environmental Claim**" means any claim, proceeding or investigation by any person in respect of any Environmental Law.

"**Environmental Law**" means any applicable law or regulation in any jurisdiction in which any member of the Group conducts business which relates to the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants.

"**Environmental Permits**" means any permit, licence, consent, approval and other authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any member of the Group conducted on or from the properties owned or used by the relevant member of the Group.

"**ERISA**" means the United States Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

"**EURIBOR**" means, in relation to any Loan in euro:

(a) the applicable Screen Rate; or

(b) (if no Screen Rate is available for the Interest Period of that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request quoted by the Reference Banks to leading banks in the European interbank market,

as of the Specified Time on the Quotation Day for the offering of deposits in euro for a period comparable to the Interest Period of the relevant Loan.

"**Event of Default**" means any event or circumstance specified as such in Clause 24 (*Events of Default*).

"**Extension Request**" means a First Extension Request and/or a Second Extension Request issued by the Company in accordance with Clause 8.1 (*Request for Extension*).

"**Facility**" means Facility A, Facility B or Facility C.

"**Facility A**" means the multicurrency revolving loan facility made available under this Agreement as described in paragraph (a) of Clause 2.1 (*The Facilities*).

"**Facility A Commitment**" means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility A Commitment" in Part II of Schedule 1 (*The Original Parties*) and the amount of any other Facility A Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility A Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility A Loan**" means a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

"**Facility B**" means the multicurrency revolving loan facility made available under this Agreement as described in paragraph (b) of Clause 2.1 (*The Facilities*).

"**Facility B Commitment**" means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility B Commitment" in Part II (*The Original Lenders*) of Schedule 1 and the amount of any other Facility B Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility B Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility B Loan**" means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

"**Facility C**" means the multicurrency revolving loan facility made available under this Agreement as described in paragraph (c) of Clause 2.1 (*The Facilities*).

"**Facility C Commitment**" means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility C Commitment" in Part II (*The Original Lenders*) of Schedule 1 and the amount of any other Facility C Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility C Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility C Loan**" means a loan made or to be made under Facility C or the principal amount outstanding for the time being of that loan.

"**Facility Office**" means the office or offices notified by a Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

"**Fee Letter**" means each of:

(a) the Fee Letter dated on or about 25 May 2005 between the Arranger and the Company; and

(b) any other letter or agreement between the Arranger or the Agent and the Company setting out the level of fees payable in respect of the Facilities.

"**Fifth Amendment Agreement**" means the amendment and restatement agreement in relation to this Agreement dated on or about 19 December 2008 made between the Company, the Agent and the Arranger.

"**Fifth Amendment Date**" means the date on which the amendment to this Agreement becomes effective in accordance with the terms of the Fifth Amendment Agreement.

"**Finance Document**" means this Agreement, any Accession Letter, the Fee Letter and any other document designated as a " **Finance Document**" by the Agent and the Company.

"**Finance Party**" means the Agent, the Arranger or a Lender.

"**Financial Indebtedness**" means any indebtedness for or in respect of, and without double counting:

(a) moneys borrowed (including, but not limited to, any amount raised by acceptance under any acceptance credit facility and receivables sold or discounted on a recourse basis (it being understood that Permitted Securitisations shall be deemed not to be on a recourse basis and shall not constitute Financial Indebtedness));

(b) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(c) the amount of any liability in respect of any lease or hire purchase contract that would, in accordance with Spanish GAAP, be treated as a Capital Lease;

(d) the deferred purchase price of assets or the deferred payment of services, except trade accounts payable in the ordinary course of business;

(e) obligations of a person under repurchase agreements for the stock issued by such person or another person;

(f) obligations of a person with respect to product invoices incurred in connection with exporting financing;

(g) all Financial Indebtedness of others secured by Security on any asset of a person, regardless of whether such Financial Indebtedness is assumed by such person in an amount equal to the lower of (i) the net book value of such asset and (ii) the amount secured thereby; and

(h) guarantees of Financial Indebtedness of other persons.

"**Financial Period**" means any annual or semi-annual accounting period of the Company.

"**First Utilisation Date**" means the date on which the first Utilisation is made under this Agreement.

"**GAAP**" means, in relation to an Obligor, the generally accepted accounting principles applying to it (i) in the country of its incorporation; or (ii) in a jurisdiction agreed to by the Agent.

"**Group**" means the Company and each of its Subsidiaries for the time being.

"**Guarantors**" means the Original Guarantors and any Additional Guarantor other than any Original Guarantor or Additional Guarantor which has ceased to be a Guarantor pursuant to Clause 26.4 (*Resignation of Guarantor)* or been removed as a Guarantor pursuant to Clause 26.5 (*Removal of Guarantor*) and has not subsequently become an Additional Guarantor pursuant to Clause 26.3 (*Additional Guarantors*) and "**Guarantor**" means any of them.

"**Holding Company**" means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

"**Information Memorandum**" means the document in the form approved by the Company (and as updated from time to time with the approval of the Company) concerning CEMEX Parent and the Group (including RMC Group Limited and its Subsidiaries) which, at the request of the Company and on its behalf was prepared in relation to the financing of the acquisition of shares in RMC Group Limited (formerly RMC Group PLC) and approved by the Company.

"**Initial Facility C Termination Date**" means 4 July 2011.

"**Intellectual Property**" means:

(a) any patents, trade marks, service marks, designs, business names, copyrights, design rights, data-base rights, inventions, knowhow and other intellectual property rights and interests, whether registered or unregistered; and

(b) the benefit of all applications and rights to use such assets of each member of the Group.

"**Interest Period**" means, in relation to a Loan, each period determined in accordance with Clause 11 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 10.3 (*Default interest*).

"**International Accounting Standards**" means the accounting standards approved by the International Accounting Standards Board from time to time.

"**Legal Opinions**" means the legal opinions delivered to the Agent pursuant to Clause 4.1 (*Initial Conditions Precedent*) or in relation to any Additional Obligors.

"**Lender**" means:

(a) any Original Lender; and

(b) any bank, financial institution, securitisation trust or fund or other entity which has become a Party in accordance with Clause 25 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

"**LIBOR**" means, in relation to any Loan:

(a) the applicable Screen Rate; or

(b) (if no Screen Rate is available for the currency or Interest Period of that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request quoted by the Reference Banks to leading banks in the London interbank market,

as of the Specified Time on the Quotation Day for the offering of deposits in the currency of that Loan and for a period comparable to the Interest Period for that Loan.

"**LMA**" means the Loan Market Association.

"**Loan**" means a Facility A Loan, a Facility B Loan or a Facility C Loan.

"**Loan Notes**" means the loan notes (if any) issued to the shareholders of the Target Shares pursuant to the Offer.

"**Majority Lenders**" means a Lender or Lenders whose undrawn Commitments and participations in the Loans then outstanding aggregate more than 51 per cent. of all the undrawn Commitments and Loans then outstanding.

"**Mandatory Cost**" means the percentage rate per annum calculated in accordance with Schedule 4 (*Mandatory Cost Formulae*).

"**Margin**" means:

(a) subject to paragraph (c) below, in relation to any Loan the percentage rate per annum determined pursuant to the table set out below:

Facility	Margin % p.a.
Facility A	0.150
Facility B	0.200
Facility C	0.225

(b) in relation to any Unpaid Sum the percentage rate per annum specified above applicable to the Facility in relation to which the Unpaid Sum arises, or if such Unpaid Sum does not arise in relation to a particular Facility, the rate per annum specified above applicable to the Facility to which the Agent reasonably determines the Unpaid Sum most closely relates, or if none, the highest rate per annum specified above,

(c) but if at any time after the first Utilisation Date following the date of the Amendment and Restatement Agreement:

(i) no Default has occurred and is continuing; and

(ii) the Net Borrowings to Adjusted EBITDA ratio in respect of the most recently completed Relevant Period is within a range set out below,

then the Margin for each Loan under each Facility will be the percentage rate per annum set out below opposite that range:

	Margin % p.a.		
Net Borrowings to Adjusted EBITDA	Facility A	Facility B	Facility C
Greater than or equal to 3.0:1	0.250	0.300	0.325
Less than 3.0:1 but greater than or equal to 2.5:1	0.200	0.250	0.275
Less than 2.5:1 but greater than or equal to 2.0:1	0.150	0.200	0.225
Less than 2.0:1	0.100	0.150	0.175

However any increase or decrease in the Margin shall take effect on the date (the " **reset date**") which is five Business Days after receipt by the Agent of the Compliance Certificate for that Relevant Period pursuant to Clause 21.2 (*Compliance Certificate*) and in the case of a then current Interest Period will apply to the whole of such Interest Period unless any payments of interest have already been made in which case any adjustments to the Margin will apply only from the date of such payment. For the purpose of determining the Margin, Net Borrowings to Adjusted EBITDA ratio and Relevant Period shall be determined in accordance with Clause 22.1 (*Financial definitions*).

"**Material Adverse Effect**" means a material adverse effect on:

(a) the business, condition (financial or otherwise) or operations of the Group taken as a whole;

(b) the rights or remedies of any Finance Party under the Finance Documents; or

(c) the ability of any Obligor to perform its obligations under the Finance Documents.

"**Material Subsidiary**" means those companies set out in Schedule 12 (*Material Subsidiaries*) and any other Subsidiary of the Company:

(a) which becomes a Subsidiary of the Company after the date hereof or acquires substantial assets or businesses after the date hereof; and

(b) which:

(i) has total assets representing 5 per cent. or more of the total consolidated assets of the Group; and/or

(ii) has revenues representing 5 per cent. or more of the consolidated turnover of the Group,

in each case calculated on a consolidated basis and any Holding Company of any such Subsidiary (save unless such company is already a Guarantor hereunder).

Compliance with the conditions set out in paragraphs (a) and (b) shall be determined by reference to the most recent Compliance Certificate supplied by the Company and/or the latest audited financial statements of that Subsidiary (consolidated in the case of a Subsidiary which itself has Subsidiaries) and the latest audited consolidated financial statements of the Group, but if a Subsidiary has been acquired since the date as at which the latest audited consolidated financial statements of the Group were prepared, the financial statements shall be adjusted in order to take into account the acquisition of that Subsidiary (that adjustment being certified by the Group's auditors as representing an accurate reflection of each of the respective revised total assets and turnover of the Group).

A report by the auditors of the Company (or, as the case may be, any other internationally recognised accounting firm that is approved by the Agent) that a Subsidiary is a Material Subsidiary shall, in the absence of manifest error, be conclusive and binding on all Parties.

"**Month**" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

(a) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day; and

(b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month.

The above rules will only apply to the last Month of any period. "**Monthly**" shall be construed accordingly.

"**Moody's**" means Moody's Investors Service Inc.

"**New Lender**" means a New Lender as specified in a Transfer Certificate.

"**New Spanish GAAP**" means the generally accepted accounting principles in Spain which were enacted for periods commencing on or after 1 January 2008 (Spanish GAAP 2007).

"**Notarisation**" has the meaning ascribed to such term in Clause 23.5 (*Notarisation*).

"**Obligors**" means the Borrowers and the Guarantors and "**Obligor**" means any of them.

"**Optional Currency**" means a currency (other than the Base Currency) which complies with the conditions set out in Clause 4.3 (*Conditions relating to Optional Currencies*).

"**Original Financial Statements**" means:

(a) in relation to the Company, its audited unconsolidated and consolidated financial statements for its financial year ended 31 December 2003;

(b) in relation to each Guarantor, its respective audited unconsolidated (and, to the extent available, its audited consolidated) financial statements for its financial year ended 31 December 2003; and

(c) in relation to any other Obligor, its most recent audited financial statements.

"**Original Obligor**" means an Original Borrower or an Original Guarantor.

"**Outlook**" means a rating outlook of the Company with regard to the Company's economic and/or fundamental business condition, as assigned by a Rating Agency.

"**Participating Member State**" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"**Party**" means a party to this Agreement.

"**Permitted Notarisations**" has the meaning ascribed to such term in Clause 23.5 (*Notarisation*).

"**Permitted Securitisations**" means a sale, transfer or other securitisation of receivables and related assets by the Company or its Subsidiaries, including a sale at a discount, **provided that** (i) such receivables have been transferred, directly or indirectly, by the originator thereof to a special purpose vehicle in a manner that satisfies the requirements for an absolute conveyance, and not merely a pledge, under the laws and regulations of the jurisdiction in which such originator is organised and (ii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or other securitisation is carried out on a non-recourse basis or on a basis where recovery is limited solely to the collection of the relevant receivables.

"**Process Agent**" means CEMEX UK at its registered address being, as at the date of this Agreement, CEMEX House, Coldharbour Lane, Thorpe, Egham, Surrey TW20 8TD and with fax number (+44) 01932 568933, Attn: The Secretary.

"**Qualifying Lender**" has the meaning given to that term in Clause 14 (*Tax gross-up and indemnities*).

"**Quotation Day**" means, in relation to any period for which an interest rate is to be determined:

(a) (if the currency is sterling) the first day of that period;

(b) (if the currency is euro) two TARGET Days before the first day of that period; or

(c) (for any other currency) two Business Days before the first day of that period,

unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Day for that currency will be determined by the Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days).

"**Rating**" means at any time the solicited long term credit rating or the senior implied rating of the Company or an issue of securities of or guaranteed by the Company, where the rating is based primarily on the senior unsecured credit risk of the Company and/or, in the case of the senior implied rating, on the characteristics of any particular issue, assigned by a Rating Agency.

"**Rating Agency**" means S&P or Moody's.

"**Reference Banks**" means, the principal London offices of Citibank, N.A., Deutsche Bank A.G., Banco Bilbao Vizcaya Argentaria, S.A. and such other banks as may be appointed by the Agent in consultation with the Company.

"**Relevant Interbank Market**" means, in relation to euro, the European interbank market, and, in relation to any other currency, the London interbank market.

"**Relevant Jurisdiction**" means in relation to an Obligor:

(a) its jurisdiction of incorporation; and

(b) any jurisdiction where it conducts its business.

"**Relevant Period**" has the meaning given to that term in Clause 22 (*Financial Covenants*).

"**Repeating Representations**" means each of the representations set out in Clauses 20.1 (*Status*) to Clause 20.6 (*Governing law and enforcement*), Clause 20.9 (*No default*), paragraphs (a) and (b) of Clause 20.11 (*Financial statements*), Clause 20.12 (*Pari passu ranking*), Clause 20.13 (*No proceedings pending or threatened*) and Clause 20.14 (*No winding-up*).

"**Rollover Loan**" means one or more Loans:

(a) made or to be made on the same day that a maturing Loan is due to be repaid;

(b) the aggregate amount of which is equal to or less than the maturing Loan;

(c) in the same currency as the maturing Loan (unless it arose as a result of the operation of Clause 6.2 (*Unavailability of a currency*)); and

(d) made or to be made for the purpose of refinancing a maturing Loan.

"**S&P**" means Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc., or any successor thereto from time to time.

"**Screen Rate**" means:

(a) in relation to LIBOR, the British Bankers' Association Interest Settlement Rate for the relevant currency and period; and

(b) in relation to EURIBOR, the percentage rate per annum determined by the Banking Federation of the European Union for the relevant period,

displayed on the appropriate page of the Reuters screen. If the agreed page is replaced or service ceases to be available, the Agent may specify another page or service displaying the appropriate rate after consultation with the Company and the Lenders.

"**Security**" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Spain**" means the Kingdom of Spain.

"**Spanish Public Document**" means any obligation in an *Escritura Pública* or *documento intervenido*.

"**Specified Time**" means a time determined in accordance with Schedule 8 (*Timetables*).

"**Stake**" means a number of shares in any Group member held by another Group member the disposal of which would cause the first Group member to cease to be a Subsidiary of the second Group member.

"**Subsidiary**" means in relation to any company or corporation, a company or corporation:

(a) which is controlled, directly or indirectly, by the first mentioned company or corporation;

(b) more than half the issued share capital of which is beneficially owned, directly or indirectly by the first mentioned company or corporation; or

(c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

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

"**TARGET Day**" means any day on which TARGET2 is open for the settlement of payments in euro.

"**Tax**" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Taxes Act**" means the Income and Corporation Taxes Act 1988.

"**Termination Date**" means:

(a) in relation to Facility A, the day which is 36 Months after the date of this Agreement;

(b) in relation to Facility B, the day which is 60 Months after the date of this Agreement;

(c) in relation to Facility C and subject to Clause 8 (*Extension of Facility C*), the Initial Facility C Termination Date,

or, in each case, if such day would not be a Business Day, the first succeeding Business Day, unless such day would fall into the next month, in which case the immediately preceding Business Day.

"**Total Commitments**" means the aggregate of the Total Facility A Commitments, the Total Facility B Commitments and the Total Facility C Commitments.

"**Total Facility A Commitments**" means the aggregate of the Facility A Commitments.

"**Total Facility B Commitments**" means the aggregate of the Facility B Commitments.

"**Total Facility C Commitments**" means the aggregate of the Facility C Commitments.

"**Transfer Certificate**" means a certificate substantially in the form set out in Schedule 5 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Company.

"**Transfer Date**" means, in relation to a transfer, the later of:

(a) the proposed Transfer Date specified in the Transfer Certificate; and

(b) the date on which the Agent executes the Transfer Certificate.

"**Unpaid Sum**" means any sum due and payable but unpaid by an Obligor under the Finance Documents.

"**U.S.**", "**US**" or "**United States**" means the United States of America.

"**Utilisation**" means a utilisation of a Facility.

"**Utilisation Date**" means the date of a Utilisation, being the date on which the relevant Loan is to be made.

"**Utilisation Request**" means a notice substantially in the form set out in Schedule 3 (*Utilisation Request*).

"**VAT**" means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

1.2 **Construction**

(a) Unless a contrary indication appears a reference in this Agreement to:

(i) the "**Agent**", the "**Arranger**", any "**Finance Party**", any "**Lender**", any "**Obligor**" or any "**Party**" shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

(ii) a document in "**agreed form**" is a document which is initialled by or on behalf of the Company and the Agent or the Arranger;

(iii) "**assets**" includes present and future properties, revenues and rights of every description;

(iv) the "**European interbank market**" means the interbank market for euro operating in Participating Member States;

(v) a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended or novated;

(vi) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

(vii) a "**participation**" of a Lender in a Loan, means the amount of such Loan which such Lender has made or is to make available and thereafter that part of the Loan which is owed to such Lender;

(viii) a "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing;

(ix) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, with which persons who are subject thereto are accustomed to comply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

(x) the "**winding-up**", "**dissolution**", "**administration**" or "**reorganisation**" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings (such as, in Spain, *suspensión de pagos*, *quiebra, concurso* or any other *situación concursal*) under the laws and regulations of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, bankruptcy, dissolution, administration, arrangement, adjustment, protection or relief of debtors;

(xi) a provision of law is a reference to that provision as amended or re-enacted without material modification;

(xii) a time of day is a reference to London time; and

(xiii) a reference to a clause, paragraph or schedule, unless the context otherwise requires, is a reference to a clause, a paragraph of or a schedule to this Agreement.

(b) Section, Clause and Schedule headings are for ease of reference only.

(c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

(d) A Default (including an Event of Default) is "**continuing**" if it has not been remedied or waived but, for the avoidance of doubt, no breach of any of the financial covenants set out in Clause 22 (*Financial Covenants*) shall be capable of being or be deemed to be remedied by virtue of the fact that upon any subsequent testing of such covenants pursuant to Clause 22 (*Financial Covenants*), there is no breach thereof.

1.3 **Currency Symbols and Definitions**

"**£**" and "**sterling**" denote lawful currency of the United Kingdom, "**€**", "**EUR**" and "**euro**" means the single currency unit of the Participating Member States and "**US$**", "**$**" and "**dollars**" denote lawful currency of the United States of America and "**¥**" and "**yen**" denote lawful currency of Japan.

1.4 **Third party rights**

(a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or enjoy the benefit of any term of any Finance Document.

(b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary any Finance Document at any time.

SECTION 2
THE FACILITIES

2. THE FACILITIES

2.1 The Facilities

Subject to the terms of this Agreement, the Lenders make available:

(a) a three year multicurrency revolving loan facility in an aggregate amount equal to the Total Facility A Commitments;

(b) a five year multicurrency revolving loan facility in an aggregate amount equal to the Total Facility B Commitments; and

(c) subject to Clause 8 (*Extension of Facility C*), a multicurrency revolving loan facility in an aggregate amount equal to the Total Facility C Commitments until the Initial Facility C Termination Date.

2.2 Finance Parties' rights and obligations

(a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

(b) Except as otherwise stated in the Finance Documents, the rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt.

(c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

2.3 Affiliate Facility Offices

(a) A Lender may designate an Affiliate of that Lender as its Facility Office for the purpose of participating in or making Loans to Borrowers in particular countries.

(b) An Affiliate of a Lender may be designated for the purposes of paragraph (a):

(i) by appearing under the name of the Lender in Part II (*The Original Lenders*) of Schedule 1 and executing this Agreement; or

(ii) by being referred to in and executing a Transfer Certificate by which the Lender becomes a Party.

(c) An Affiliate of a Lender referred to in this Clause 2.3 shall not have any Commitment, but shall be entitled to all rights and benefits under the Finance Documents relating to its participation in Loans, and shall have the corresponding duties of a Lender in relation thereto, and is a Party to this Agreement and each other relevant Finance Document for those purposes.

(d) A Lender which has an Affiliate appearing under its name in Part II (*The Original Lenders*) of Schedule 1 or, as the case may be, in a Transfer Certificate, will procure, subject to the terms of this Agreement, that the Affiliate participates in Loans to the relevant Borrower(s) in place of that Lender. However, if as a result of the Affiliate's participation, an Obligor would be obliged to make a payment to the Affiliate under Clause 14 (*Tax Gross-up and indemnities*) or Clause 15 (*Increased costs*), then the Affiliate is only entitled to receive payment under those clauses to the same extent as the Lender (designating such Affiliate) would have been if the Lender had not designated such Affiliate for purposes of paragraph (a) above.

3. PURPOSE

3.1 Purpose

Each Borrower shall apply the proceeds of each Loan for its general corporate purposes, including in or towards refinancing Financial Indebtedness of members of the Group which is outstanding as of the first Utilisation and for payment of any break funding costs, redemption premia and other costs, fees and expenses (and taxes thereon) payable in connection with such refinancing.

3.2 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. CONDITIONS OF UTILISATION

4.1 Initial Conditions Precedent

The Company may not deliver the first Utilisation Request unless the Agent has received all of the documents and other evidence listed in Part I (*Conditions Precedent to Initial Utilisation*) of Schedule 2. The Agent has notified the Company and the Lenders that it is so satisfied.

4.2 Further Conditions Precedent

The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) if on the date of the Utilisation Request and on the proposed Utilisation Date:

(a) in the case of a Rollover Loan, no Event of Default is continuing or would result from the proposed Loan and, in the case of any other Utilisation, no Default is continuing or would result from the proposed Utilisation;

(b) the Repeating Representations which are or which are deemed to be made or repeated by each Obligor on such date pursuant to Clause 20.20 (*Times on which representations are made*) are true in all material respects;

4.3 Conditions relating to Optional Currencies

(a) A currency will constitute an Optional Currency in relation to a Utilisation if:

(i) it is readily available in the amount required and freely convertible into the Base Currency in the Relevant Interbank Market on the Quotation Day and the Utilisation Date for that Utilisation; and

(ii) it is sterling, euros or yen or has been approved by the Agent (acting on the instructions of all the Lenders) on or prior to receipt by the Agent of the relevant Utilisation Request for that Utilisation.

(b) The Lenders will only be obliged to comply with Clause 30.9 (*Change of currency*) if, on the first day of an Interest Period, no Default is continuing or would result from the change of currency and the Repeating Representations to be made by each Obligor are true in all material respects.

(c) If the Agent has received a written request from the Company for a currency to be approved under paragraph (a)(ii) above, the Agent will confirm to the Company by the Specified Time:

(i) whether or not the Lenders have granted their approval; and

(ii) if approval has been granted, the minimum amount (and, if required, integral multiples) for any subsequent Utilisation in that currency.

4.4 **Maximum number of Loans**

(a) The Company may not deliver a Utilisation Request if as a result of the proposed Utilisation:

(i) 10 or more Facility A Loans would be outstanding; or

(ii) 10 or more Facility B Loans would be outstanding; or

(iii) 10 or more Facility C Loans would be outstanding.

(b) Any Loan made by a single Lender under Clause 6.2 (*Unavailability of a currency*) shall not be taken into account in this Clause 4.4.

SECTION 3
UTILISATION

5. UTILISATION

5.1 Delivery of a Utilisation Request

The Company may utilise a Facility by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time.

5.2 Completion of a Utilisation Request

(a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

(i) it identifies the Facility to be utilised;

(ii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;

(iii) the currency and amount of the Loan complies with Clause 5.3 (*Currency and amount*); and

(iv) the proposed Interest Period complies with Clause 11 (*Interest Periods*).

(b) Only one Loan may be requested in each Utilisation Request.

5.3 Currency and amount

(a) The currency specified in a Utilisation Request must be the Base Currency or an Optional Currency.

(b) Unless the Agent otherwise agrees, the amount of the proposed Utilisation must be an amount whose Base Currency Amount is not more than the Available Facility (adjusted, where applicable, to take account of any additional Utilisations which are scheduled to take place on or before the relevant Utilisation Date) and which is:

(i) if the currency selected is the Base Currency, a minimum of US$20,000,000 or, if less, the relevant Available Facility; or

(ii) if the currency selected is sterling or euros or yen, a minimum of £10,000,000 or, as the case may be, EUR15,000,000 or, as the case may be, ¥4,500,000,000 or, if less, the relevant Available Facility; or

(iii) if the currency selected is an Optional Currency other than sterling, euros or yen, the minimum amount specified by the Agent pursuant to paragraph (c)(ii) of Clause 4.3 (*Conditions relating to Optional Currencies*) or, if less, the relevant Available Facility,

provided that such minimum amounts shall not apply where the proposed Utilisation is for the purpose of refinancing a maturing Loan in another currency and the relevant Utilisation Request instructs that proceeds shall be applied directly in such refinancing.

5.4 **Lenders' participation**

(a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.

(b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the relevant Available Facility immediately prior to making the Loan.

(c) The Agent shall determine the Base Currency Amount of each Loan which is to be made in an Optional Currency and shall notify each Lender of the amount, currency and the Base Currency Amount of each Loan and the amount of its participation in that Loan, in each case by the Specified Time.

6. OPTIONAL CURRENCIES

6.1 **Selection of currency**

The Company shall select the currency of each Loan in a Utilisation Request.

6.2 **Unavailability of a currency**

If before the Specified Time on any Quotation Day:

(a) a Lender notifies the Agent that the Optional Currency requested is not readily available to it in the amount required, and provides in writing an objectively justified reason therefor; or

(b) a Lender notifies the Agent that compliance with its obligation to participate in a Loan in the proposed Optional Currency would contravene a law or regulation applicable to it,

the Agent will give notice to the Company to that effect by the Specified Time on that day. In this event, any Lender that gives notice pursuant to this Clause 6.2 will be required to participate in the Loan in the Base Currency (in an amount equal to that Lender's proportion of the Base Currency Amount, or in respect of a Rollover Loan, an amount equal to that Lender's proportion of the Base Currency Amount of the Rollover Loan that is due to be made) and its participation will be treated as a separate Loan denominated in the Base Currency during that Interest Period.

6.3 **Agent's calculations**

Each Lender's participation in a Loan will be determined in accordance with paragraph (b) of Clause 5.4 (*Lenders' participation*).

SECTION 4
REPAYMENT, PREPAYMENT AND CANCELLATION

7. REPAYMENT

The Borrowers shall repay each Loan on the last day of its Interest Period. If such Loan is to be refinanced with a Rollover Loan, the amount of each Loan required to be repaid shall be set off against the amount of the applicable Rollover Loan, **provided that** all Loans shall be repaid on, or prior to the Termination Date relating thereto.

8. EXTENSION OF FACILITY C

8.1 Request for Extension

(a) The Company may request, by notifying the Agent in writing (the " **Second Extension Request**") not earlier than 60 days and not later than 45 days before 4 July 2007, the extension of the Termination Date of Facility C by an additional 365 day period.

(b) Upon notification by the Agent that it has received a Second Extension Request from the Company, each Lender shall freely determine whether or not it shall extend its Facility C Commitments in accordance with the relevant Extension Request and shall, within 10 Business Days of receipt of such notification from the Agent, notify the Agent of its own decision to accept or decline the request set out in the Second Extension Request.

(c) The Agent shall, as soon as reasonably practicable after it has received all the Lenders' respective decisions in accordance with paragraph (b) above, notify the Company and the Lenders of the level of acceptances.

8.2 Acceptance of Extension Request

Any agreement by a Lender to an Extension Request shall extend that Lender's Facility C Commitments by an additional 365 day period only and shall be binding on each such Lender only.

8.3 Reduced Facility C Commitments

In the event that a Lender declines to extend its Facility C Commitments pursuant to the Second Extension Request, the amount of the Total Facility C Commitments shall, following the Initial Facility C Termination Date, reduce by the amount of that declining Lender's Facility C Commitments accordingly. For the avoidance of doubt, Facility C shall continue to be available until the end of its Availability Period reflecting the Commitments of those Lenders who have agreed to the requests contained in the Second Extension Request.

8.4 Reduction of Facility B Commitments

The Total Facility B Commitments shall reduce on 24 March 2008, 24 September 2008, 24 March 2009 and 24 September 2009 in each case by an amount equal to 25 per cent. of the amount of the Total Facility B Commitments as at 24 March 2008, such reduction to be applied *pro rata* to the Facility B Commitment of each Lender on the date of each such reduction.

9. PREPAYMENT AND CANCELLATION

9.1 Illegality of a Lender

If, at any time, it is or will become unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Utilisation:

(a) that Lender shall promptly notify the Agent upon becoming aware of that event and in any event at a time which permits the Company to repay that Lender's participation on the date such repayment is required to be made;

(b) upon the Agent notifying the Company, the Commitment of that Lender will be immediately cancelled; and

(c) the Company shall, on the last day of the Interest Period for each Loan occurring after the Agent has notified the Company or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law), repay that Lender's participation in the Loans together with accrued interest on and all other amounts owing to that Lender under the Finance Documents.

9.2 Voluntary cancellation

The Company may if it gives the Agent not less than five Business Days' (or such shorter period as the Majority Lenders in respect of the Facility to which such cancellation relates may agree) prior notice, cancel the whole or any part (being a minimum amount of US$50,000,000) of any Facility. Any cancellation under this Clause 9.2 shall reduce rateably the Commitments of the Lenders under that Facility.

9.3 Automatic Cancellation

At the close of business on the last day of the Availability Period in respect of each Facility, the Available Commitment of each Lender under such Facility shall be (if it has not already been) cancelled and reduced to zero.

9.4 Voluntary prepayment of Loans

A Borrower may, if the Company gives the Agent not less than five Business Days' (or such shorter period as the Majority Lenders in respect of the relevant Facility may agree) prior notice, prepay the whole or any part of any Loan (but, if in part, being an amount that reduces the Base Currency Amount of that Loan by a minimum amount of US$50,000,000).

9.5 Right of repayment and cancellation in relation to a single Lender

(a) If:

(i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (c) of Clause 14.2 (*Tax gross-up*); or

(ii) any Lender claims indemnification from an Obligor under Clause 14.3 (*Tax indemnity*) or Clause 15.1 (*Increased costs*),

the Company may, whilst the circumstance giving rise to the requirement or indemnification continues, give the Agent notice of cancellation of the Commitment of that Lender and its intention to procure the repayment of that Lender's participation in the Loans.

(b) On receipt of a notice referred to in paragraph (a) above, the relevant Commitment of that Lender shall immediately be reduced to zero.

(c) On the last day of each Interest Period which ends after the Company has given notice under paragraph (a) above (or, if earlier, the date specified by the Company in that notice), each Borrower shall repay that Lender's participation in the Loans to which such Interest Period relates.

9.6 **Restrictions**

(a) Any notice of cancellation or prepayment given by any Party under this Clause 9 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

(b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs (if any), without premium or penalty.

(c) Unless a contrary indication appears in this Agreement, any part of Facility A, Facility B or Facility C which is prepaid may be reborrowed in accordance with the terms of this Agreement.

(d) No Borrower shall repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

(e) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

(f) If the Agent receives a notice under this Clause 9 it shall promptly forward a copy of that notice to either the relevant Borrower or the affected Lenders, as appropriate.

SECTION 5
COSTS OF UTILISATION

10. INTEREST

10.1 Calculation of interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

(a) Margin;

(b) LIBOR or, in relation to any Loan in euro, EURIBOR; and

(c) Mandatory Cost, if any.

10.2 Payment of interest

On the last day of each Interest Period relating to a Loan each Borrower shall pay accrued interest on the Loan to which that Interest Period relates (and, if the Interest Period is longer than six Months, on the dates falling at six Monthly intervals after the first day of that Interest Period).

10.3 Default interest

(a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is two per cent. higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration of one Month. Any interest accruing under this Clause 10.3 shall be immediately payable by the Obligor on demand by the Agent.

(b) If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:

(i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and

(ii) the rate of interest applying to the overdue amount during that first Interest Period shall be two per cent. higher than the rate which would have applied if the overdue amount had not become due.

(c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

10.4 Notification of rates of interest

The Agent shall promptly notify the Lenders and the relevant Borrower of the determination of a rate of interest under this Agreement.

11. INTEREST PERIODS

11.1 Selection of Interest Periods

(a) The Company may select an Interest Period for a Loan in the Utilisation Request for that Loan.

(b) Subject to this Clause 11, the Company may select an Interest Period of one, two, three or six Months, or any other period agreed between the Company and the Agent (acting on the instructions of all the Lenders participating in the relevant Facility).

(c) An Interest Period for a Loan shall not extend beyond the Termination Date applicable to its Facility.

11.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

12. CHANGES TO THE CALCULATION OF INTEREST

12.1 Absence of quotations

Subject to Clause 12.2 (*Market disruption*), if LIBOR or, if applicable, EURIBOR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by the Specified Time on the Quotation Day, the applicable LIBOR or EURIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

12.2 Market disruption

(a) If a Market Disruption Event occurs in relation to a Loan for any Interest Period, then the rate of interest on each Lender's share of that Loan for the Interest Period shall be the rate per annum which is the sum of:

(i) the Margin;

(ii) the rate notified to the Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in that Loan from whatever source it may reasonably select; and

(iii) the Mandatory Cost, if any, applicable to that Lender's participation in that Loan.

(b) In this Agreement "**Market Disruption Event**" means:

(i) at or about noon on the Quotation Day for the relevant Interest Period the Screen Rate not being available and none or only one of the Reference Banks supplying a rate to the Agent to determine LIBOR or, if applicable, EURIBOR for the relevant currency and Interest Period; or

(ii) before close of business in London on the Quotation Day for the relevant Interest Period, the Agent receiving notifications from a Lender or Lenders (in either case whose participations in a Loan exceed 50 per cent. of that Loan) that the cost to it or them of obtaining matching deposits in the Relevant Interbank Market would be in excess of LIBOR or, if applicable, EURIBOR.

12.3 **Alternative basis of interest or funding**

(a) If a Market Disruption Event occurs and the Agent or the Company so requires, the Agent and the Company shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest in respect of the relevant Loan.

(b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders participating in the relevant Loan and the Company, be binding on all Parties.

12.4 **Break Costs**

(a) Each Borrower shall, within three Business Days of demand by a Lender, pay to that Lender its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by that Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.

(b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming in reasonable detail the amount of its Break Costs for any Interest Period in which they accrue.

13. **FEES**

13.1 **Commitment fee**

(a) The Company shall pay to the Agent (for the account of each Lender) a commitment fee in respect of each Facility in the Base Currency computed at the rate of 30 per cent. of the applicable Margin from time to time per annum on that Lender's Available Commitment under each Facility for the period commencing on the Effective Date under (and as defined in) the Amendment and Restatement Agreement and ending on the last day of the Availability Period applicable to that Facility;

(b) The accrued commitment fees set out above are payable on the last day of each successive period of three Months which ends during the Availability Period, on the last day of the Availability Period and, if cancelled in full, on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.

13.2 **Arrangement fee**

The Company shall pay to the Arranger an arrangement fee in the amount and at the times agreed in the Fee Letter.

13.3 **Agency fee**

The Company shall pay to (or procure payment to) the Agent (for its own account) an agency fee in the amount and at the times agreed in the Fee Letter.

13.4 **Extension fee**

The Company shall pay to the Agent (for the account of each Lender extending its Facility C Commitments) such extension fee (if any) and at such time as is agreed between the Company and the extending Lenders on the extension of Facility C pursuant to Clause 8 (*Extension of Facility C*).

13.5 **Amendment fee**

The Company shall pay to the Agent (for the account of each Lender participating in the Facilities (as amended and restated by the Amendment and Restatement Agreement)) an amendment fee in the amount and at the times agreed in the Fee Letter.

SECTION 6
ADDITIONAL PAYMENT OBLIGATIONS

14. **TAX GROSS UP AND INDEMNITIES**

14.1 **Definitions**

(a) In this Clause 14:

"**Protected Party**" means a Finance Party which is or will be subject to any liability or required to make any payment, for or on account of Tax, in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

"**Qualifying Lender**" means:

(i) any legal person or entity (including, for the avoidance of doubt, any securitisation trust or fund) habitually resident for taxation purposes in a Qualifying State which is not acting through a territory considered as a tax haven pursuant to Spanish laws and regulations (currently set out in Royal Decree 1080/1991 of 5 July (*Real Decreto 1080/1991 de 5 de julio*)) or through a permanent establishment in Spain; or

(ii) any legal person or entity (including, for the avoidance of doubt, any securitisation trust or fund) resident in a country which, as a result of any applicable double taxation treaty, would not require any payments made by a Borrower to such financial institution hereunder to be subject to any deduction or withholding in Spain; or

(iii) any Domestic Lender.

"**Qualifying State**" means a member state of the European Union (other than Spain).

"**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment made under a Finance Document.

"**Tax Payment**" means either the increase in a payment made by an Obligor to a Finance Party under Clause 14.2 (*Tax gross-up*) or a payment under Clause 14.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 14 a reference to " **determines**" or "**determined**" means a determination made in the absolute good faith discretion of the person making the determination.

14.2 **Tax gross-up**

(a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law or regulation.

(b) The Company or a Lender shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. If the Agent receives such notification from a Lender it shall notify the Company and that Obligor.

(c) If a Tax Deduction is required by law or regulation to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due and payable if no Tax Deduction had been required.

(d) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law or regulation.

(e) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Agent for the Finance Party entitled to the payment an original receipt (or certified copy thereof) or if unavailable such other evidence as is reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

14.3 **Tax indemnity**

(a) The Company shall (within five Business Days of demand by the Agent) pay to a Protected Party an amount equal to the amount of any Tax assessed on that Protected Party (together with any interest, costs or expenses payable, directly or indirectly, or incurred in connection therewith) in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

(b) Paragraph (a) of this Clause 14.3 shall not apply with respect to any Tax assessed on a Finance Party:

(i) under the laws and regulations of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or

(ii) under the laws and regulations of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income (but not on any sum deemed to be received or receivable in respect of any payment made under Clause 14.2 (*Tax gross-up*)) of that Finance Party.

(c) A Protected Party making, or intending to make a claim pursuant to paragraph (a) of this Clause 14.3 shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Company.

(d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 14.3, notify the Agent.

14.4 **Tax Certificates**

(a) Without prejudice to the other provisions of this Clause 14, in relation to any exemption from or application of a rate lower than that of general application pursuant to any legislation in Spain or any double taxation treaty, or pursuant to any other cause relating to residence status, any Lender which is not a Domestic Lender shall supply the Company, through the Agent, prior to the interest payment date with a certificate of residence issued by the pertinent fiscal administration, in the case of a Qualifying Lender which is not a Domestic Lender, accrediting such Qualifying Lender as resident for tax purposes in a Qualifying State or, as the case may be, accrediting such Lender as resident for tax purposes in a State which has signed and ratified a double taxation treaty with Spain.

(b) As such certificates referred to in paragraph (a) of this Clause 14.4 are, at the date hereof, only valid for a period of one year, each such Lender will be required to so supply a further such certificate upon expiry of the previous certificate in relation to any further payment of interest.

14.5 **Stamp Taxes**

The Company shall pay and, within five Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document except for any such tax payable in connection with the entering into of a Transfer Certificate.

14.6 **Value Added Tax**

(a) All consideration expressed to be payable under a Finance Document by any Party to a Finance Party shall be deemed to be exclusive of any VAT. If VAT is chargeable on any supply made by any Finance Party to any Party in connection with a Finance Document, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the VAT and such Finance Party shall promptly provide an appropriate VAT invoice to such Party.

(b) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify that Finance Party against all VAT incurred by the Finance Party in respect of the costs or expenses to the extent that the Finance Party reasonably determines that it is not entitled to credit or repayment of the VAT.

15. **INCREASED COSTS**

15.1 **Increased costs**

(a) Subject to Clause 15.2 (*Increased Cost Claims)* and Clause 15.3 (*Exceptions*) the Company shall, within three Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:

(i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or

(ii) compliance with any law or regulation,

in each case made after the date of this Agreement.

(b) In this Agreement "**Increased Costs**" means, without duplication:

(i) a reduction in the rate of return from a Facility or on a Finance Party's (or its Affiliate's) overall capital;

(ii) an additional or increased cost; or

(iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitments or funding or performing its obligations under any Finance Document.

15.2 **Increased cost claims**

(a) A Finance Party intending to make a claim pursuant to Clause 15.1 (*Increased costs*) shall notify the Agent of the event giving rise to the claim and a calculation evidencing in reasonable detail the amount of such Increased Costs to be claimed by such Finance Party, following which the Agent shall promptly notify the Company and provide the Company with such calculations.

(b) Each Finance Party shall, as soon as practicable after a demand by the Agent provide a certificate confirming the amount of its Increased Costs.

15.3 **Exceptions**

(a) Clause 15.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

(i) attributable to a Tax Deduction required by law or regulation to be made by an Obligor;

(ii) compensated for by Clause 14.3 (*Tax indemnity*) (or would have been compensated for under Clause 14.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 14.3 (*Tax indemnity*) applied);

(iii) compensated for by the payment of the Mandatory Cost; or

(iv) attributable to the breach by the relevant Finance Party or its Affiliates of any law or regulation.

(b) In this Clause 15.3, a reference to a "**Tax Deduction**" has the same meaning given to the term in Clause 14.1 (*Definitions*).

16. **OTHER INDEMNITIES**

16.1 **Currency indemnity**

(a) If any sum due from an Obligor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

(i) making or filing a claim or proof against that Obligor; or

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

16.2 **Other indemnities**

(a) Each Obligor shall, within five Business Days of demand, indemnify each Finance Party against any cost, loss or liability not otherwise compensated under the provisions of this Agreement and excluding any lost profits, consequential or indirect damages (other than interest or default interest) incurred by that Finance Party as a result of its Commitment or the making of any Loan under the Finance Documents as a result of:

(i) the occurrence of any Event of Default;

(ii) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 29 (*Sharing among the Finance Parties*);

(iii) funding, or making arrangements to fund, its participation in a Loan requested by the Company in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or

(iv) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Company.

(b) The Company shall procure that an Obligor will indemnify and hold harmless each Finance Party and each of their respective directors, officers, employees, agents, advisors and representatives (each being an "**Indemnified Person**") from and against any and all claims, damages, losses, liabilities, costs, legal

expenses and other expenses (all together "**Losses**") which have been incurred by or awarded against any Indemnified Person, in each case arising out of or in connection with any claim, investigation, litigation or proceeding (or the preparation of any defence with respect thereto) commenced or threatened by any person in relation to any of the Finance Documents (only in so far as such claim, investigation, litigation or proceeding relates to the use of proceeds of the Facilities towards the acquisition by the Company or CEMEX UK or any person acting in concert with the Company or CEMEX UK of any of the ordinary shares of RMC Group PLC) except to the extent such Losses or claims result from such Indemnified Person's negligence or misconduct or a breach of any Finance Document by an Indemnified Person **provided that**:

(i) the Indemnified Party shall as soon as reasonably practicable inform the CEMEX Parent of any circumstances of which it is aware and which would be reasonably likely to give rise to any such investigation, litigation or proceeding (whether or not an investigation, litigation or proceeding has occurred or been threatened);

(ii) the Indemnified Party will, where reasonable and practicable, and taking into account the provisions of this Agreement, give CEMEX Parent an opportunity to consult with it with respect to the conduct or settlement of any such investigation, litigation or proceeding;

(iii) an Indemnified Party will provide the Company on request (and, to the extent practicable without any waiver of legal professional privilege or breach of confidentiality obligation) with copies of material correspondence in relation to the Losses and allow the Company to attend all material meetings in relation to the Losses, receive copies of material legal advice obtained by the Indemnified Party in relation to the Losses;

(iv) the Company will keep strictly confidential all information received by it in connection with the Losses and will not disclose any information to any third party without the prior written consent of the Indemnified Party;

(v) no Obligor shall be liable for any settlement of the Losses unless the Company has consented to that settlement; and

(vi) no Indemnified Party shall be required to comply with paragraphs (i) or (ii) or (iii) nor shall paragraph (v) apply unless the Indemnified Party is and continues to be indemnified on a current basis for its costs and expenses.

Any third party referred to in this paragraph (b) may rely on this Clause 16.2 subject to Clause 1.4 (*Third Party Rights*) and the provisions of the Third Parties Act.

16.3 **Indemnity to the Agent**

The Company shall (or shall procure that another Obligor will) promptly indemnify the Agent against any cost, loss or liability directly related to this Agreement incurred by the Agent (acting reasonably and otherwise than by reason of the Agent's gross negligence or wilful misconduct) as a result of:

(a) investigating any event which it reasonably believes (acting prudently and, if possible, following consultation with the Company) is a Default; or

(b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

17. MITIGATION BY THE LENDERS

17.1 Mitigation

(a) Each Finance Party shall, in consultation with the Company, take all reasonable steps to mitigate any circumstances which arise after the date of this Agreement and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 9.1 (*Illegality of a Lender*), Clause 14 (*Tax Gross-up and Indemnities*) or Clause 15 (*Increased Costs*) or paragraph 3 of Schedule 4 (*Mandatory Cost Formulae*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

(b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

17.2 Limitation of liability

(a) The Company shall (or shall procure that another Obligor will) indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 17.1 (*Mitigation*).

(b) A Finance Party is not obliged to take any steps under Clause 17.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

18. COSTS AND EXPENSES

18.1 Transaction expenses

The Company shall pay the Agent and the Arranger the amount of all transaction costs and expenses as set out in the Costs and Expenses Letter.

18.2 Amendment costs

If (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 30.9 (*Change of currency*), the Company shall, within three Business Days of demand, reimburse the Agent, the Arranger and each Lender for the amount of all costs and expenses (including legal fees, but in this case, only the legal fees of one law firm in each relevant jurisdiction acting on behalf of all the Lenders) reasonably incurred by such parties in responding to, evaluating, negotiating or complying with that request or requirement.

18.3 Enforcement costs

The Company shall, within three Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

SECTION 7
GUARANTEE

19. GUARANTEE AND INDEMNITY

19.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

(a) guarantees to each Finance Party punctual performance by each Borrower of that Borrower's obligations under the Finance Documents;

(b) undertakes with each Finance Party that whenever a Borrower does not pay any amount when due under or in connection with any Finance Document, it shall immediately on demand pay that amount as if it was the principal obligor; and

(c) indemnifies each Finance Party immediately on demand against any cost, loss or liability suffered by that Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that Finance Party would otherwise have been entitled to recover.

19.2 Continuing Guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by each Borrower under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

19.3 Reinstatement

If any payment by any Borrower or any discharge given by a Finance Party (whether in respect of the obligations of any Borrower or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

(a) the liability of each Borrower shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

(b) each Finance Party shall be entitled to recover the value or amount of that security or payment from each Borrower, as if the payment, discharge, avoidance or reduction had not occurred.

19.4 Waiver of defences

The obligations of each Guarantor under this Clause 19 will not be affected by an act, omission, matter or thing which, but for this Clause 19, would reduce, release or prejudice any of its obligations under this Clause 19 (without limitation and whether or not known to it or any Finance Party) including:

(a) any time, waiver or consent granted to, or composition with, any Borrower or other person;

(b) the release of any Borrower or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Borrower or any other person;

(e) any amendment (however fundamental) or replacement of a Finance Document or any other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or

(g) any insolvency or similar proceedings.

19.5 **Immediate recourse**

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from a Guarantor under this Clause 19. This waiver applies irrespective of any law or regulation or any provision of a Finance Document to the contrary.

Each Guarantor also waives any right to be sued jointly with other Guarantors and to share liability resulting from any claim against it.

19.6 **Appropriations**

Until all amounts which may be or become payable by a Borrower under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

(a) refrain from applying or enforcing any other monies, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any monies received from a Guarantor or on account of such Guarantor's liability under this Clause 19,

provided that the operation of this Clause 19.6 shall not be deemed to create any Security.

19.7 **Deferral of Guarantors' rights**

Until all amounts which may be or become payable by a Borrower under or in connection with the Finance Documents have been irrevocably paid in full and unless the Agent otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents:

(a) to be indemnified by a Borrower;

(b) to claim any contribution from any other guarantor of any Borrower's obligations under the Finance Documents; and/or

(c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party.

19.8 **Additional security**

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

SECTION 8
REPRESENTATION, UNDERTAKINGS AND EVENTS OF DEFAULT

20. REPRESENTATIONS

Each Obligor makes the representations and warranties set out in this Clause 20 to each Finance Party.

20.1 Status

(a) It is a corporation, duly organised and validly existing under the laws and regulations of its jurisdiction of incorporation.

(b) It has the power to own its assets and carry on its business as it is being conducted.

20.2 Binding obligations

The obligations expressed to be assumed by it in each Finance Document are, subject to any reservations which are specifically referred to in any Legal Opinion, legal, valid, binding and enforceable obligations.

20.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

(a) any law or regulation applicable to it;

(b) its constitutional documents; or

(c) any agreement or instrument binding upon it or any of its assets.

20.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

20.5 Validity and admissibility in evidence

All Authorisations required or desirable:

(a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and

(b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect.

20.6 Governing law and enforcement

(a) The choice of English law as the governing law of the Finance Documents will be recognised and enforced in its jurisdiction of incorporation subject to any reservations which are specifically referred to in any legal opinion.

(b) Any judgment obtained in England in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation, subject to any reservations which are specifically referred to in any Legal Opinion.

20.7 **Deduction of Tax**

It is not required under the laws and regulations of its jurisdiction of incorporation to make any deduction for or on account of Tax from any payment it may make under any Finance Document to any Qualifying Lender.

20.8 **No filing or stamp taxes**

Under the laws and regulations of its jurisdiction of incorporation it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents.

20.9 **No default**

(a) No Default or Event of Default is continuing or might reasonably be expected to result from the making of any Utilisation.

(b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or its Subsidiaries') assets are subject which might have a Material Adverse Effect.

20.10 **No misleading information**

(a) Any factual information provided by the Company for the purposes of the Information Memorandum was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.

(b) The financial projections contained in the Information Memorandum have been prepared in good faith on the basis of recent historical information and on the basis of the assumptions stated therein, which assumptions were fair in the light of conditions existing at the time of delivery of such forecasts, and represented, at the time of delivery, the Company's best estimate of its future performance.

(c) So far as the Company is aware, after reasonable enquiry, nothing has occurred or been omitted from the Information Memorandum and no information has been given or withheld that results in the information contained in the Information Memorandum being untrue or misleading in any material respect.

(d) All material written information (other than the Information Memorandum) supplied by any member of the Group is true, complete and accurate in all material respects as at the date it was given and is not misleading in any material respect.

20.11 **Financial statements**

(a) Its Original Financial Statements were prepared in accordance with GAAP consistently applied and are complete and accurate in all material respects.

(b) Its Original Financial Statements fairly represent its financial condition and operations during the relevant financial year.

(c) For the purposes of any repetition of the representation contained in paragraphs (a) and (b) of this Clause 20.11 (pursuant to Clause 20.20 (*Times on which representations are made*)) the representations will be made in respect of the latest consolidated financial statements of each Obligor instead of the Original Financial Statements.

20.12 **Pari passu ranking**

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law or regulation applying to companies generally.

20.13 **No proceedings pending or threatened**

Except as disclosed in Schedule 14 (*Proceedings Pending or Threatened*), no litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which are likely to be adversely determined and which, if so determined, would be reasonably likely to have a Material Adverse Effect or purports to affect the legality, validity or enforceability of any of the obligations under the Finance Documents have been started or threatened against any Obligor or any Material Subsidiary.

20.14 **No winding-up**

No legal proceedings or other procedures or steps have been taken or, to the Company's knowledge after reasonable enquiry, are being threatened, in relation to the winding-up, dissolution, administration or reorganisation of any Obligor or Material Subsidiary (other than a solvent liquidation or reorganisation of any Material Subsidiary which is not an Obligor).

20.15 **Material Adverse Change**

There has been no material adverse change in the Company's business, condition (financial or otherwise), operations, performance or assets taken as a whole (or the business, consolidated condition (financial or otherwise) operations, performance or the assets generally of the Group taken as a whole) since its Original Financial Statements.

20.16 **Environmental compliance**

Each member of the Group has performed and observed in all material respects all Environmental Law, Environmental Permits and all other material covenants, conditions, restrictions or agreements directly or indirectly concerned with any contamination, pollution or waste or the release or discharge of any toxic or hazardous substance in connection with any real property which is or was at any time owned, leased or occupied by any member of the Group or on which any member of the Group has conducted any activity where failure to do so might reasonably be expected to have a Material Adverse Effect.

20.17 **Environmental Claims**

No Environmental Claim has been commenced or (to the best of its knowledge and belief) is threatened against any member of the Group where that claim would be reasonably likely, if determined against that member of the Group to have a Material Adverse Effect.

20.18 **No Immunity**

In any proceedings taken in its jurisdiction of incorporation in relation to this Agreement, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

20.19 **Private and commercial acts**

Its execution of the Finance Documents constitutes, and its exercise of its rights and performance of its obligations hereunder will constitute, private and commercial acts done and performed for private and commercial purposes.

20.20 **Times on which representations are made**

(a) All the representations and warranties in this Clause 20 are made to each Finance Party on the date of this Agreement except for the representations and warranties set out in Clause 20.10 (*No misleading information*) which are deemed to be made by each Obligor on the date that the Information Memorandum was approved by CEMEX UK and on the date the Facilities were primarily syndicated (and for this purpose, the Information Memorandum referred to therein shall be the Information Memorandum as updated in accordance with the principles agreed between the Arranger and CEMEX UK).

(b) The Repeating Representations are deemed to be made by each Obligor to each Finance Party on the date of each Utilisation Request and on the first day of each Interest Period.

(c) The Repeating Representations and each of the representations and warranties set out in Clause 20.5 (*Validity and admissibility in evidence*), Clause 20.6 (*Governing law and enforcement*), Clause 20.9 (*No default*) and paragraph (b) of Clause 20.10 (*No misleading information*) (in respect only of information given by it) are deemed to be made by each Additional Guarantor to each Finance Party on the day on which it becomes an Additional Guarantor.

(d) Each representation or warranty deemed to be made after the date of this Agreement shall be made by reference to the facts and circumstances existing at the date the representation or warranty is made.

21. **INFORMATION UNDERTAKINGS**

The undertakings in this Clause 21 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

21.1 **Financial statements**

The Company shall supply to the Agent:

(a) as soon as the same become available, but in any event within 180 days after the end of each of such Obligor's respective financial years:

(i) the Company's audited consolidated and unconsolidated financial statements for that financial year; and

(ii) each Guarantor's respective audited consolidated (to the extent available) and unconsolidated financial statements for that financial year; and

(b) as soon as the same become available, but in any event within 90 days after the end of the first half of each of its financial years, its unaudited consolidated financial statements for that period.

21.2 **Compliance Certificate**

(a) The Company shall supply to the Agent, with each set of consolidated financial statements delivered pursuant to paragraphs (a)(i) and (b) of Clause 21.1 (*Financial statements*) above, a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 22 (*Financial Covenants*) as at the date as at which those financial statements were drawn up.

(b) Each Compliance Certificate shall be signed by an Authorised Signatory of the Company and, if required to be delivered with the consolidated financial statements delivered pursuant to paragraph (a)(i) of Clause 21.1 (*Financial statements*), the Company shall provide to the Agent, by no later than 180 days after the end of the relevant financial year, a letter from the Company's auditors or any other internationally recognised accounting firm that is approved by the Agent confirming that the numbers used in the Compliance Certificate calculations have been correctly extracted from the consolidated financial statements of the Company.

21.3 **Requirements as to financial statements**

(a) Each set of financial statements delivered by the Company pursuant to Clause 21.1 (*Financial statements*) shall be certified by an Authorised Signatory of the relevant company as fairly representing its financial condition as at the date as at which those financial statements were drawn up.

(b) The Company will prepare its audited and consolidated financial statements for Financial Periods ending on or after 31 December 2008 in accordance with the New Spanish GAAP (notwithstanding that the Original Financial Statements were prepared on the basis of other accounting practices) and (without prejudice to the requirements relating to the signature of a Compliance Certificate contained in paragraph (b) of Clause 21.2 (*Compliance Certificate*)):

(i) in respect of the Financial Period ending 31 December 2008, the Company shall, in order to test compliance with the financial covenants in Clause 22 (*Financial Covenants*):

(A) prepare, in relation to the relevant components which are used in the definitions contained in Clause 22.1 (*Financial definitions*) for the relevant Financial Period, a reconciliation of those components with the corresponding components that were prepared in accordance with GAAP and accounting practices applicable for the Financial Period ending 31 December 2007;

(B) request an Affiliate of its auditors to concur with the procedure adopted for the above reconciliation; and

(C) request the auditors to provide a negative assurance on the figures on which the reconciliation has been based being, for these purposes, a confirmation that those figures have been extracted from the consolidated financial statements of from the accounting records of the Company; and

(ii) subject to paragraph (d) below, in respect of any Financial Periods beginning on or after 1 January 2009, the Company shall, in order to test compliance with the financial covenants in Clause 22 (*Financial Covenants*):

(A) prepare, in relation to the relevant components which are used in the definitions contained in Clause 22.1 (*Financial definitions*) for the relevant Financial Period, a reconciliation of those components with the corresponding components that were prepared in accordance with GAAP and accounting practices applicable for the period ending 31 December 2007; and

(B) have an international finance director of the Company or CEMEX Parent deliver to the Agent a description of necessary changes and reasonably sufficient information to enable the Lenders to determine whether the financial covenants in Clause 22 (*Financial Covenants*) have been complied with,

and the Company will then use the relevant components in paragraphs (b)(i)(A) or (b)(ii)(A) above (as the case may be), for the calculations of EBITDA, Adjusted EBITDA, Net Borrowings and Finance Charges to test the financial covenant ratios contained in Clause 22.2 (*Financial condition*) and the calculation of Subsidiary Financial Indebtedness under Clause 23.15 (*Subsidiary Financial Indebtedness incurrence*).

(c) The Company shall procure that each set of financial statements delivered pursuant to Clause 21.1 (*Financial statements*) is prepared on the basis set out in paragraph (b) above unless, in relation to any set of financial statements, it notifies the Agent that there has been a change in GAAP, or the accounting practices or reference periods and, unless amendments are agreed in accordance with paragraph (d) of this Clause 21.3, its auditors or any other internationally recognised accounting firm that is approved by the Agent (or, if appropriate, the auditors of the Obligor or any other internationally recognised accounting firm in respect of the Obligor that is approved by the Agent) or, in the case of any financial statements referring to a period after 31 December 2008, an international finance director of the Company or CEMEX Parent (or, if appropriate, an international finance director, vice president or treasurer of the relevant Obligor or CEMEX Parent) deliver to the Agent:

(i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which that Obligor's Original Financial Statements were prepared; and

(ii) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 22 (*Financial covenants*) has been complied with and make an accurate comparison between the financial position indicated in those financial statements and that Obligor's Original Financial Statements.

(d) If the Company adopts International Accounting Standards or, unless the procedure in paragraph (c) above is utilised, there are changes to GAAP, or the accounting practices or reference periods, or, in respect of any Financial Periods beginning on or after 1 January 2009, the Company and the Agent shall, at the Company's request, negotiate in good faith with a view to agreeing such amendments to the financial covenants in Clause 22 (*Financial Covenants*) and the ratios used to calculate the Margin and, in each case, the definitions used therein as may be necessary to ensure that the criteria for evaluating the Group's financial condition grant to the Lenders protection equivalent to that which would have been enjoyed by them had the Company not adopted International Accounting Standards or had there not been a change in GAAP, or the accounting practices or reference periods (subject to compliance with paragraph (b) above). Any amendments agreed will take effect on the date agreed between the Agent and the Company subject to the consent of the Majority Lenders. If no such agreement is reached within 90 days of the Company's request, the Company will remain subject to the obligation to deliver the information specified in paragraph (b) of this Clause 21.3 and the financial covenants in Clause 22 (*Financial covenants*) and the financial ratios to calculate the Margin shall be based on the information delivered.

21.4 **Information: miscellaneous**

The Company shall supply to the Agent:

(a) all documents dispatched by the Company to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;

(b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, or which, to the Company's knowledge after reasonable enquiry, are being threatened or are pending and are likely to be adversely determined against any member of the Group which, in the reasonable opinion of the Company, are not spurious or vexatious, and which might, if adversely determined, have a Material Adverse Effect;

(c) promptly, such further information regarding the financial condition, assets and business of any Obligor or member of the Group as the Agent (or any Lender through the Agent) may reasonably request (including, but not limited to, information on Ratings, if such credit rating has not been publicly announced) other than any information the disclosure of which would result in a breach of any applicable law or regulation or confidentiality agreement entered into in good faith **provided that** the Company shall use reasonable efforts to be released from any such confidentiality agreement; and

(d) promptly upon becoming aware of them, the details of any Environmental Claim which is current, threatened or pending against any member of the Group which is referred to in Clause 23.12 (*Environmental claims*) which are not spurious or vexatious, which are likely to be adversely determined against any member of the Group and which could reasonably be expected, if adversely determined, to have a Material Adverse Effect;

21.5 **Notification of default**

(a) Each Obligor shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).

(b) Promptly upon a request by the Agent, the Company shall supply to the Agent a certificate signed by an Authorised Signatory on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

21.6 **"Know your client" checks**

(a) Each Obligor shall promptly upon the request of the Agent or any Lender and each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective New Lender) in order for the Agent, such Lender or any prospective New Lender to carry out and be satisfied with the results of all necessary "know your client" or other checks in relation to the identity of any person that it is required by law to carry out in relation to the transactions contemplated in the Finance Documents. For the avoidance of doubt, a Lender will have no obligation towards the Agent to evidence that it has complied with any "know your client" or similar checks in relation to the Obligors.

(b) The Company shall, by not less than five Business Days' written notice to the Agent, notify the Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Obligor pursuant to Clause 26 (*Changes to the Obligors*).

(c) Following the giving of any notice pursuant to paragraph (b) above, the Company shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective New Lender) in order for the Agent, such Lender or any prospective New Lender to carry out and be satisfied with the results of all necessary "know your client" or other checks in relation to the identity of any person that it is required by law to carry out in relation to the accession of such Additional Obligor to this Agreement.

21.7 **Notarisations**

Each Obligor shall notify the Agent of any Notarisations referred to in paragraph (a)(iv) of Clause 23.5 (*Notarisation*) promptly upon such Notarisations taking place.

22. **FINANCIAL COVENANTS**

22.1 **Financial definitions**

In this Clause 22:

"**Adjusted EBITDA**" means, for any Relevant Period, the sum of (a) EBITDA and (b) with respect to any business acquired during such period, the sum of (i) the operating income and (ii) depreciation and amortization expense for such business, as determined in accordance with GAAP for such Relevant Period (the "**Acquired Business Amount**"), **provided that** the Company need only make the adjustments contemplated by "(b)" above if the operating income and depreciation and amortization expense of the acquired business in the 12 Months prior to its acquisition amount to US$10,000,000 or more.

"**CEMEX Capital Contributions**" means (i) contributions in cash or Contributions in Kind to the capital of the Company or any Subsidiary of the Company or (ii) amounts made available to the Company or any Subsidiary of the Company in a form which satisfies the Spanish law requirements of *préstamos participativos* or which fall within the definition of Subordinated Debt. Any such contributions in cash or Contributions in Kind or amounts made available as *préstamos participativos* or Subordinated Debt are to be made by CEMEX Parent or any of its Subsidiaries which are not at the time of such contribution or the making available of such amounts a wholly-owned Subsidiary of the Company or a Subsidiary of the Company.

"**Contributions in Kind**" means a contribution that constitutes delivery of shares of any directly or indirectly owned Subsidiary of CEMEX Parent which at the time immediately prior to the contribution (i) is not a wholly-owned Subsidiary of the Company or (ii) is not a Subsidiary of the Company, **provided that**:

(a) in each case in relation to such Subsidiary:

(i) substantially all of its assets are in the form of cash or cash equivalents;

(ii) it has no Financial Indebtedness in place; and

(iii) after the making of any such contribution in kind, the Company has the ability to control directly or indirectly the affairs of such Subsidiary; and

(b) such Contributions in Kind shall be limited to the amount of any cash or cash equivalents transferred directly or indirectly as part of that contribution.

"**EBITDA**" means for the Relevant Period immediately preceding the date on which it is to be calculated, operating profit plus annual depreciation for fixed assets plus annual amortisation of intangible assets plus annual amortisation of start-up costs of the Group plus dividends received from non-consolidated companies and from companies consolidated by the equity method plus an amount equal to the amount of CEMEX Capital Contributions made during such period immediately preceding the date on which it is to be calculated (up to an amount equal to the amount of Royalty Expenses made in

such period) plus the income recorded during such period for the use of CO2 Emission Rights (to the extent not already included in the calculation of operating profit). Such calculation shall be made in accordance with GAAP.

"**Finance Charges**" means for any Relevant Period, the sum (without duplication) of (a) all interest expense in respect of Financial Indebtedness (including imputed interest on Capital Leases) for such period plus (b) all debt discount and expense (including, without limitation, expenses relating to the issuance of instruments representing Financial Indebtedness) amortized during such period plus (c) amortization of discounts on sales of receivables during such period plus (d) all factoring charges for such period plus (e) all guarantee charges for such period, all determined on a consolidated basis in accordance with GAAP.

"**Guarantees**" means any guarantee or indemnity of Financial Indebtedness of another person (in the case of the latter for any specified amount or otherwise in the amount specified in or for which provision has been made in the accounts of the indemnifier) in any form made other than in the ordinary course of business of the guarantor.

"**Intellectual Property Rights**" means all copyrights (including rights in computer software), trade marks, service marks, business names, patents, rights in inventions, registered designs, design rights, database rights and similar rights, rights in trade secrets or other confidential information and any other intellectual property rights and any interests (including by way of license) in any of the foregoing (in each case whether registered or not and including all applications for the same) which may subsist in any given jurisdiction.

"**Net Borrowings**" means, at any time, the remainder of (a) Total Borrowings at such time less (b) the aggregate amount of the following items held by the Company and its Subsidiaries at such time: cash on hand, marketable securities, investments in money market funds, banker's acceptances, short-term deposits and other liquid investments.

"**Relevant Period**" means each period of twelve Months ending on the last day of the first half of the Company's financial year and each period of twelve Months ending on the last day of the Company's financial year.

"**Rolling Basis**" means the calculation of a ratio or an amount made at the end of a financial half year in respect of that financial half year and the one immediately preceding 6 month period.

"**Royalty Expenses**" means expenses incurred by the Company or any of its Subsidiaries to CEMEX Parent or any of its Subsidiaries not being a Subsidiary of the Company as (a) consideration for the granting to the Company or any Subsidiary of a licence to use, exploit and enjoy Intellectual Property Rights and any other intangible assets such as, but not limited to, know-how, formulae, process technology and other forms of intellectual and industrial property, whether or not registered, held by CEMEX Parent or any of its Subsidiaries not being a Subsidiary of the Company; or (b) fees, commissions or other amounts accrued in respect of any management contract, services contract, overhead expenses allocation arrangement or any other similar transaction; **provided that** in paragraphs (a) and (b) such amounts shall have been taken into consideration in the calculation of operating profit under Spanish GAAP.

"**Subordinated Debt**" means debt granted by CEMEX Parent (a company registered in Mexico) or any of its Subsidiaries not being a member of the Group to the Company or any of its Subsidiaries on terms such that no payments of principal may be made thereunder (including but not limited to following any winding up, *concurso de acreedores* or other like event of the Company) unless either:

(i) the Agent has confirmed in writing that all amounts outstanding hereunder have been paid in full; or

(ii) the ratio of Net Borrowings to Adjusted EBITDA (calculated in accordance with Clause 22.3 (*Financial testing*)) prior to such repayment is equal to or lower than 2.7:1 and will remain equal to or lower than 2.7:1 after such repayment and no Event of Default under this Agreement has occurred and is continuing or will occur as a result of the repayment of such debt.

"**Total Borrowings**" means without duplication, in respect of any person all Guarantees granted by such person plus all such person's Financial Indebtedness, but excluding (i) any Guarantee or Financial Indebtedness which, notwithstanding falling within the definition of Guarantee or Financial Indebtedness, is not required to be recorded as a liability by that person on its balance sheet (whether consolidated or otherwise) in accordance with generally accepted accounting principles applicable to that person which are in effect as at the time that such Guarantee or Financial Indebtedness is entered into, issued or incurred, (ii) any Subordinated Debt and (iii) any amounts which are made available in a form which satisfies the Spanish law requirements of *préstamos participativos*.

22.2 **Financial condition**

The Company shall ensure that in respect of any Relevant Period:

(a) ending on or after 30 June 2008, the ratio of Net Borrowings to Adjusted EBITDA calculated on a Rolling Basis shall not exceed A:1 as at that date, where A has the value set out in the table below opposite the date on which that Relevant Period ends;

Date on which Relevant Period ends	Ratio
31 December 2008	4.50
30 June 2009	4.50
31 December 2009	4.50
30 June 2010	4.25
31 December 2010	3.75
30 June 2011	3.75
31 December 2011	3.50
30 June 2012	3.50

(b) the ratio of EBITDA to Finance Charges calculated on a Rolling Basis shall be greater than or equal to 3:1.

22.3 **Financial testing**

The financial covenants set out in Clause 22.2 (*Financial condition*) shall be tested semi-annually by reference to each of the Company's consolidated financial statements delivered pursuant to and/or each Compliance Certificate delivered with respect to any such consolidated financial statements pursuant to Clause 21.1 (*Financial statements*) and Clause 21.2 (*Compliance Certificate*).

22.4 **Accounting terms**

All accounting expressions which are not otherwise defined herein shall have the meaning ascribed thereto in GAAP.

22.5 **Correction of FX distortion**

(a) As a result of the market volatility and the depreciation of the Euro against the US Dollar, the Company will, for each Relevant Period ending on or after 31 December 2008 (subject to the proviso below), recalculate any portion of the EBITDA and, if applicable, the Acquired Business Amount, for a particular Relevant Period which is (in each case) denominated in US Dollars, by converting each Month's EBITDA amount and, if applicable, Acquired Business Amount, denominated in US Dollars into Euro by applying the Ending Exchange Rate applicable to that Relevant Period for the conversion of US Dollars into Euro, **provided that** the Majority Lenders shall have the option, in respect of any Relevant Period ending after 31 December 2009 (but not any Relevant Period ending before that date) to decide that the currency volatility recalculations set out in this paragraph (a) are no longer to apply and, if they so decide, the Agent (acting on the instructions of the Majority Lenders) shall notify the Company in writing and from the date of such notice, the currency volatility recalculations set out in this Clause 22.5 shall no longer apply.

(b) The "**Ending Exchange Rate**" means, in respect of a Relevant Period, the exchange rate at the end of that Relevant Period used to calculate any portion of Financial Indebtedness from US Dollars into Euro for the purposes of the calculations of the financial covenants contained in this Clause 22.

(c) For the avoidance of doubt, that portion of each Month's EBITDA and, if applicable, Acquired Business Amount (of the twelve month period) in Euros which has been converted from US Dollars shall be divided by the exchange rate (the exchange rate from US Dollars to Euro) which has been used by the Company in determining that Month's EBITDA and, if applicable, Acquired Business Amount, and then multiplied by the Ending Exchange Rate. The resulting recalculated EBITDA and, if applicable, Acquired Business Amount, will be the sum of each Month's recalculated EBITDA and, if applicable, Acquired Business Amount, during the Relevant Period and will be used for the purposes of the testing of the financial covenants in this Clause 22.

22.6 **Conversion or Replacement of *Préstamos Participativos***

The Company or any of its Subsidiaries may convert or replace *préstamos participativos* into or with (as the case may be) Subordinated Debt or shares issued by the Company or any of its Subsidiaries.

23. GENERAL UNDERTAKINGS

The undertakings in this Clause 23 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

23.1 Authorisations

Each Obligor shall promptly:

(a) obtain, comply with and do all that is necessary to maintain in full force and effect; and

(b) supply certified copies to the Agent of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document.

23.2 Preservation of corporate existence

Subject to Clause 23.8 (*Merger*), each Obligor shall (and the Company shall ensure that each of its Material Subsidiaries will), preserve and maintain its corporate existence and rights.

23.3 Preservation of properties

Each Obligor shall (and the Company shall ensure that each of its Material Subsidiaries will) maintain and preserve all of its properties that are used or useful in the conduct of its business in good working order and condition, ordinary wear and tear excepted.

23.4 Compliance with laws and regulations

(a) Each Obligor shall (and shall procure that each of its Subsidiaries will) comply in all respects with all laws and regulations to which it may be subject, if failure to so comply would be likely to have a Material Adverse Effect.

(b) The Company shall (and shall procure that each of its Subsidiaries will) ensure that the levels of contribution to pension schemes are and continue to be sufficient to comply with all its and their material obligations under such schemes and generally under applicable laws (including ERISA) and regulations, except where failure to make such contributions would not reasonably be expected to have a Material Adverse Effect.

23.5 Notarisation

(a) Subject to paragraph (b) of this Clause 23.5, the Company shall not (and shall procure that none of its Subsidiaries will) permit any of its unsecured indebtedness to be notarised as a Spanish Public Document (any such notarisation, a " **Notarisation**"), other than the following permitted Notarisations ("**Permitted Notarisations**"):

(i) any Permitted Notarisations listed in Schedule 11 (*Existing Notarisations*) and any amendments or modifications thereof, **provided that** any such amendment or modification shall not result in the increase of the principal

amount of the relevant indebtedness nor the extension of the maturity thereof nor, for the avoidance of doubt, relate to any refinancing of the relevant indebtedness;

(ii) Notarisations which are required by applicable law or regulation or which arise by operation of law other than pursuant to any issue of debt securities in accordance with Article 285 of the Spanish Corporations Law (*Ley de Sociedades Anónimas*);

(iii) Notarisations with the prior written consent of the Majority Lenders;

(iv) any Notarisations securing indebtedness the principal amount of which (when aggregated with the principal amount of any other Notarisations other than any Permitted Notarisations under paragraphs (i) or (iii) above) do not exceed US$100,000,000 (or its equivalent in another currency or currencies); and

(v) any Notarisations relating to indebtedness in respect of any sale and purchase agreement customarily registered in a public register in Spain and payment of which indebtedness is made within seven days of the date of such agreement.

(b) Paragraph (a) of this Clause 23.5 shall not apply if the Company, concurrently with any such Notarisation (not being a Permitted Notarisation) referred to in paragraph (a) of this Clause 23.5 and at its own cost and expense, causes this Agreement to be the subject of a Notarisation.

23.6 **Negative pledge**

The Company shall not and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Security on or with respect to any of its property or assets or those of any Subsidiary, whether now owned or held or hereafter acquired, other than the following Security ("**Permitted Security**"):

(a) Security for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made;

(b) statutory liens of landlords and liens of carriers, warehousemen, mechanics and materialment incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made;

(c) liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security;

(d) any judgment lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(e) Security existing on the date of this Agreement as described in Schedule 10 (*Existing Security*) **provided that** the principal amount secured thereby is not increased;

(f) any Security on property acquired by the Company or any of its Subsidiaries after the date of this Agreement that was existing on the date of acquisition of such property **provided that** such Security was not incurred in anticipation of such acquisition; and any Security created to secure all or any payment of the purchase price, or to secure indebtedness incurred or assumed to pay all or any part of the purchase price, of property acquired by the Company or any of its Subsidiaries after the date of this Agreement **provided**, **further**, **that** (i) any such Security permitted pursuant to this paragraph (f) shall be confined solely to the item or items of property so acquired (including, in the case of any acquisition of a corporation through the acquisition of 51% or more of the voting stock of such corporation, the stock and assets of any acquired Subsidiary or acquiring Subsidiary by which the acquired Subsidiary will be directly or indirectly controlled) and, if required by the terms of the instrument originally creating such Security, other property which is an improvement to, or is acquired for specific use with, such acquired property; (ii) if applicable, any such Security shall be created within nine Months after, in the case of property, its acquisition, or, in the case of improvements, their Completion; and (iii) no such Security shall be made in respect of any indebtedness in relation to repayment of which recourse may be had to any member of the Group (in the form of Security) other than in relation to the item or items as referred to in (i) above;

(g) any Security renewing, extending or refinancing the indebtedness to which any Security permitted by paragraph (f) above relates; **provided that** the principal amount of indebtedness secured by such Security immediately prior thereto is not increased and such Security is not extended to other property;

(h) any Security created on shares representing no more than a Stake in the capital stock of any of the Company's Subsidiaries solely as a result of the deposit or transfer of such shares into a trust or a special purpose corporation (including any entity with legal personality) of which such shares constitute the sole assets **provided that** the proceeds from the deposit or transfer of such shares into such trust, corporation or entity and from any transfer of or distributions in respect of the Company's or any Subsidiary's interest in such trust, corporation or entity are applied as provided under Clause 23.7 (*Disposal Proceeds*) and **provided further that** such Security may not secure Financial Indebtedness of the Company or any Subsidiary unless otherwise permitted under this Clause 23.6 and that the economic and voting rights in such capital stock is maintained by the Company in its Subsidiaries;

(i) any Security permitted by the Agent, acting on the instructions of the Majority Lenders;

(j) any securitisation of receivables notwithstanding that it is made at discount from the amount due on such receivables and **provided that** it is made on a non recourse basis or that recourse is directly or indirectly limited to collection of the receivables plus related interest and financial and collection costs and expenses; and

(k) in addition to the Security permitted by the foregoing paragraphs (a) to (k), Security securing indebtedness of the Company and its Subsidiaries (taken as a whole) not in excess of an amount equal to 5% of the Adjusted Consolidated Net Tangible Assets of the Group, as determined in accordance with GAAP,

unless, in each case, the Obligors have made or caused to be made effective provision whereby the obligations hereunder are secured equally and rateably with, or prior to, the indebtedness secured by such Security (other than Permitted Security) for so long as such indebtedness is so secured.

For the purposes of paragraph (l) of this Clause 23.6, "**Adjusted Consolidated Net Tangible Assets**" means, with respect to any person, the total assets of such person and its Subsidiaries (less applicable depreciation, amortisation and other valuation reserves), including any write-ups or restatements required under GAAP (other than with respect to items referred to in (ii) below), minus (i) all current liabilities of such person and its Subsidiaries (excluding the current portion of long-term debt) and (ii) all goodwill, trade names, trademarks, licences, concessions, patents, un-amortised debt discount and expense and other intangibles, all as determined on a consolidated basis in accordance with GAAP.

23.7 **Disposal Proceeds**

(a) The Company shall use any amounts of Disposal Proceeds and Permitted Securitisation Proceeds (together, " **Relevant Disposal Proceeds**") to:

(i) repay or prepay the Facilities in accordance with Clause 7 (*Repayment*) or Clause 9.4 (*Voluntary prepayment of Loans*) respectively or otherwise pursuant to the terms of this Agreement;

(ii) repay or prepay any Financial Indebtedness of the CEMEX Group (including any scheduled amortisation payments) where the tenor of such Financial Indebtedness is less than one year from the date of such repayment or prepayment, save unless a member of the CEMEX Group is required to prepay or repay any indebtedness with such proceeds (in which case they shall be so used and this tenor requirement shall not apply);

(iii) if, having used its reasonable endeavours to procure an amendment to any capital markets' indebtedness of the Group outstanding on the Effective Date to reflect the terms of the financial covenants contained in Clause 22 (*Financial covenants*), it has been unable to do so and is therefore required to prepay such indebtedness, make such prepayment; or

(iv) if, during any financial year of the Company in which Relevant Disposal Proceeds are received, the Company determines that it will require funds during that financial year to meet its obligations falling due in the ordinary course of its business (after taking into account any cash available to the Group or to be received by the Group during such period and not required to meet any specific obligations during such period) retain such Relevant Disposal Proceeds and apply them towards such obligations, **provided that**:

(A) the maximum amount of Relevant Disposal Proceeds that may be retained in this way in any financial year of the Company, when aggregated with all Relevant Disposal Proceeds retained in this way in such financial year shall not exceed the lower of (1) US$200 million (or its equivalent in other currencies) and (2) 20 per cent. of the aggregate Relevant Disposal Proceeds which have been received by the Company or any member of the Group in that financial year of the Company; and

(B) if any Relevant Disposal Proceeds are retained in this way and not in fact used to meet obligations falling due in the ordinary course of its business referred to above in the financial year of the Company in which such Relevant Disposal Proceeds are received, the amount which has not been so applied shall be applied promptly by the Company for one or more of the purposes set out in sub-paragraphs (i) to (iii) (inclusive) above,

and further **provided that** the Company shall notify the Agent of any amounts which it intends to retain from Relevant Disposal Proceeds pursuant to this paragraph (iv) promptly after receipt of the same.

(b) In this Clause 23.7:

"**Disposal**" means a sale, lease, licence, transfer, loan or other disposal by a person of any asset or shares in any Subsidiary or other company whose principal purpose or one of whose principal purposes is the ownership of assets which are to be the subject of a Disposal (whether by a voluntary or involuntary single transaction or series of transactions).

"**Disposal Proceeds**" means the cash consideration received after the date of the Fifth Amendment Agreement by any member of Group (including any amount receivable in repayment of intercompany debt) for any Disposal (except in respect of any Excluded Disposal Proceeds) after deducting:

(i) any expenses which are incurred by the disposing party of such assets with respect to that disposing party of such assets with respect to that Disposal owing to persons who are not members of the relevant Group; and

(ii) any Tax incurred and required to be paid by the disposing party in connection with that Disposal (as reasonably determined by the disposal party on the basis of rates existing at the time of the disposal and taking account of any available credit, deduction or allowance).

"**Excluded Disposal Proceeds**" means the proceeds of any Disposal of:

(i) inventory or trade receivables;

(ii) assets which are redundant or no longer required with respect to the business of the disposing entity;

(iii) assets in the ordinary cause of trading of the disposing entity;

(iv) assets which are located in Hungary or Austria, or which are owned or operated by members of the Group which are incorporated and/or have their place of business in Hungary or Austria;

(v) assets pursuant to a Permitted Securitisation programme existing as at the date of the Fifth Amendment Agreement (or any rollover or extension of such a Permitted Securitisation);

(vi) any asset from any member of the Group to another member of the Group on arm's length terms and for fair market or book value;

(vii) assets in exchange for other assets comparable or superior as to value and relating to the business of the Group, or any similar arrangement, including Disposals of assets in exchange for consideration comprising a combination of other assets and cash (but **provided that** the amount of any partial cash consideration so received shall not be Excluded Disposal Proceeds);

(viii) assets leased or licensed to any director, officer or employee of any member of the Group in connection with and as part of the ordinary course of the service or employment arrangements of the Group; and

(ix) marketable securities (being securities (whether equity, debt or other securities) which are listed on a stock exchange or for which a trading market exists (whether on market or over the counter) and which are short term investments held as current assets and excluding shares in Subsidiaries of the Company.

"**Permitted Securitisation Proceeds**" means the cash consideration received by any member of the Group (including any amount received in repayment of intercompany debt) in each case after the date of the Fifth Amendment Agreement from any Permitted Securitisation (other than a Permitted Securitisation under a programme which exists on the date of the Fifth Amendment Agreement or any rollover or extension of such a Permitted Securitisation or a Permitted Securitisation between members of the Group) after deducting:

(i) any expenses which are incurred by the relevant member(s) of the Group with respect to that Permitted Securitisation owing to persons who are not members of the Group; and

(ii) any Tax incurred and required to be paid by the relevant member(s) of the Group with respect to that Permitted Securitisation (as reasonably determined by the relevant member(s) of the Group on the basis of rates existing at the time and taking account of any available credit, deduction or allowance).

23.8 **Merger**

(a) Subject to paragraphs (b) and (c) of this Clause 23.8, unless it has obtained the prior written approval of the Majority Lenders, no Obligor shall (and the Company shall ensure that none of its Subsidiaries will) enter into any amalgamation, demerger, merger or other corporate reconstruction (a "**Reconstruction**"), other than (i) a Reconstruction relating only to the Company's Subsidiaries inter se; (ii) a Reconstruction between the Company and any of its Subsidiaries; or (iii) a solvent reorganisation or liquidation of any of the Subsidiaries not being Obligors, **provided that** in any case no Default shall have occurred and be continuing at the time of such transaction or would result therefrom and **provided further that** (a) none of the Security (if any) granted to the Lenders nor the guarantees granted by the Guarantors hereunder is or are adversely affected as a result, and (b) the resulting entity, if it is not an Obligor, assumes the obligations of the Obligor the subject of the merger.

(b) Subject to paragraph (c) of this Clause 23.8, the Obligors may merge with any other person if the book value of such person's assets prior to the merger does not exceed 3 per cent. of the book value of the Group's assets taken as a whole considered on a consolidated basis.

(c) In paragraphs (a) and (b) of this Clause 23.8, the then existing Ratings of the Company shall not be downgraded whether at the time of, or within 3 Months of, the date of announcement of a Reconstruction, directly as a result of any merger involving the Company, and the resulting entity, if it is not an Obligor, shall assume the obligations of the Obligor the subject of the merger.

23.9 **Change of business**

(a) None of the Obligors shall make a substantial change to the general nature of its business from that carried on at the date of this Agreement and there shall be no cessation of business in relation to any of the Obligors (save (except in the case of the Company which shall in no event cease or substantially change its business) unless another Obligor continues to operate any such business).

(b) The Company shall procure that no substantial change is made to the general nature of the business of any of its Material Subsidiaries (other than a Guarantor) from that carried on at the date of this Agreement and that there shall be no cessation of such business.

23.10 **Insurance**

The Obligors shall (and the Company shall ensure that each of its Material Subsidiaries (other than the Obligors) will) maintain insurances on and in relation to its business and assets with reputable underwriters or insurance companies against those risks and to the extent as is usual for companies carrying on the same or substantially similar business where such insurance is available on reasonable commercial terms.

23.11 **Environmental Compliance**

The Company shall (and the Company shall ensure that each of its Subsidiaries will) comply in all material respects with all Environmental Law and obtain and maintain any Environmental Permits and take all reasonable steps in anticipation of known or expected future changes to or obligations under the same, in each case where failure to do so might reasonably be expected to have a Material Adverse Effect.

23.12 **Environmental Claims**

The Company shall inform the Agent in writing as soon as reasonably practicable upon becoming aware of the same:

(a) if any Environmental Claim has been commenced or (to the best of the Company's knowledge and belief) is threatened against any member of the Group which is likely to be determined adversely to the member of the Group; or

(b) of any facts or circumstances which will or are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group,

where the claim would be reasonably likely, if determined against that member of the Group, to have a Material Adverse Effect.

23.13 **Transactions with Affiliates**

Each Obligor shall (and the Company shall ensure that its Subsidiaries will) ensure that any transactions with respective Affiliates are on terms that are fair and reasonable and no less favourable to such Obligor or such Subsidiary than it would obtain in a comparable arm's-length transaction with a person not an Affiliate.

23.14 **Pari passu ranking**

Each Obligor shall ensure that at all times its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law or regulation applying to companies generally from time to time.

23.15 **Subsidiary Financial Indebtedness incurrence**

If, at any time, the aggregate outstanding principal amount of Subsidiary Financial Indebtedness exceeds 15% of the Consolidated Total Assets of the Company and its Subsidiaries, then for so long as such remains the case, no Subsidiary of the Company (except Subsidiaries described in paragraph (f) of the definition of "Subsidiary Financial Indebtedness" below) may, directly or indirectly, create, incur, assume or otherwise become liable with respect to any other Financial Indebtedness.

"**Subsidiary Financial Indebtedness**" means Financial Indebtedness of a Subsidiary of the Company other than:

(a) Financial Indebtedness of a Subsidiary that is an Excluded Subsidiary Guarantor;

(b) Financial Indebtedness of a Subsidiary as disclosed in Schedule 13 (*Existing Financial Indebtedness*) **provided that**:

(i) the principal amount of such Financial Indebtedness shall not be increased above the principal amount thereof outstanding immediately prior to any extension, refunding or refinancing; and

(ii) the aggregate amount of all Financial Indebtedness that has been extended, refunded or refinanced under this paragraph (b) shall not exceed $250,000,000 (or the equivalent thereof if denominated in another currency),

for the avoidance of doubt, it is understood that:

(X) if any such Financial Indebtedness is successively extended, refinanced or refunded, only the Financial Indebtedness outstanding after giving effect to all such successive extensions, refinancing and refundings shall be counted against the foregoing amount; and

(Y) any Financial Indebtedness incurred in a currency other than dollars pursuant to this paragraph (b) shall continue to be permitted under this paragraph (b), notwithstanding any fluctuation in currency values, as long as the outstanding principal amount of such Financial Indebtedness (denominated in its original currency) does not exceed the maximum amount of such Financial Indebtedness (denominated in such currency) permitted to be outstanding on the date such Financial Indebtedness was incurred);

(c) Financial Indebtedness of a Subsidiary owed to the Company or another Subsidiary;

(d) Financial Indebtedness of a Subsidiary that is:

(i) outstanding at the time such Subsidiary became a Subsidiary or;

(ii) contractually required to be incurred by such Subsidiary at such time,

provided that such Financial Indebtedness shall not have been incurred in contemplation of such Subsidiary becoming a Subsidiary and **provided that** there is no recourse to any member of the Group other than such Subsidiary following the date falling 60 days after such Subsidiary became a Subsidiary;

(e) any Financial Indebtedness extending the maturity of the Financial Indebtedness referred to in paragraph (d) above, or any refunding or refinancing of the same, **provided that** the principal amount of such Financial Indebtedness shall not be increased above the principal amount thereof outstanding immediately prior to such extension, refunding or refinancing;

(f) Financial Indebtedness of a Subsidiary which:

(i) has been formed for the purpose of, and whose primary activities are, the issuance or other incurrence of debt obligations to Persons other than Affiliates of the Company and the lending or other advance of the net proceeds of such debt obligations (whether directly or indirectly) to the Company or any Guarantor which is a Holding Company (as defined in Clause 26.3 (*Additional Guarantors*)); and

(ii) has no significant assets other than promissory notes and other contract rights in respect of funds advanced to the Company or such Guarantors; and

(g) Financial Indebtedness of a Subsidiary incurred pursuant to or in connection with any pooling agreements in place within a bank or financial institution, but only to the extent of offsetting credit balances of the Company or its Subsidiaries pursuant to such pooling arrangement.

For the purposes of this Clause 23.15 (*Subsidiary Financial Indebtedness incurrence*):

"**Excluded Subsidiary Guarantor**" means any of the Subsidiaries that are Guarantors (of all amounts owed under this Agreement on an unconditional and unrestricted basis) on the date of this Agreement; **provided that** any other Subsidiary that becomes a Guarantor (of all amounts owed under the Facilities Agreement on an unconditional and unrestricted basis) shall be treated as an Excluded Subsidiary Guarantor for the purposes of this Agreement if legal opinions and other evidence are delivered to the Agent sufficient to establish to the reasonable satisfaction of the Agent and its legal adviser that the obligations of such Guarantor under this Agreement ranks and will continue to rank at least *pari passu* with all other unsecured and unsubordinated Financial Indebtedness of such Guarantor, including in a bankruptcy or insolvency proceeding.

"**Consolidated Total Assets**" means, at any time, the total assets of the Company and its Subsidiaries, as determined in accordance with Spanish GAAP by reference to the most recent financial statements supplied by the Company pursuant to Clause 21.1 (*Financial Statements*), **provided that** such financial statements shall be adjusted to reflect the acquisition of any Subsidiary.

23.16 **Payment restrictions affecting Subsidiaries**

The Company shall not enter into or suffer to exist, or permit any of its Subsidiaries to enter into or suffer to exist, any agreement or arrangement (other than any Finance Document) directly limiting the ability of any of its Subsidiaries to:

(a) declare or pay dividends or other distributions in respect of its or their respective equity interests in a Subsidiary, except any agreement or arrangement

(other than in relation to the Asia Fund as at the date hereof) entered into by a person prior to such person becoming a Subsidiary, in which case the Company shall use its reasonable endeavours to remove such limitations. If however, such limitations are reasonably likely to affect the ability of the Company to satisfy its payment obligations under this Agreement, the Company shall use its best endeavours to remove such limitations as soon as possible; or

(b) repay or capitalise any intercompany indebtedness owed by any Subsidiary to any Obligor and, for the avoidance of doubt, subordination provisions shall not be considered a limitation for the purpose of this Clause 23.16.

23.17 **Indebtedness of Guarantors**

None of the Guarantors (other than the Company) shall incur or permit to exist any Financial Indebtedness other than:

(a) Financial Indebtedness in respect of its taxes or costs, incurred pursuant to legal requirements;

(b) Financial Indebtedness owed to another member of the Group;

(c) Financial Indebtedness of another member of the Group guaranteed by a Guarantor;

(d) Financial Indebtedness in relation to the Loan Notes; and

(e) Financial Indebtedness not falling within paragraphs (a) to (d) above, in an aggregate amount not exceeding EUR3,000,000 (or the equivalent thereof in any other currency).

23.18 **Notification of adverse change in Ratings**

The Company shall promptly notify the Agent of any change in its Ratings or Outlook.

23.19 **Financial Indebtedness**

(a) Except as permitted under paragraph (b) below, the Company shall not (and shall procure that none of its Subsidiaries will) incur any Financial Indebtedness in respect of any new loan facility (whether syndicated or bilateral) or any new issue of debt securities (" **Relevant Financial Indebtedness**") after the date of the Fifth Amendment Agreement where such Relevant Financial Indebtedness is to be used to finance:

(i) any acquisition (other than acquisitions in the ordinary course of trading);

(ii) payment of any dividends or other distribution or payment to (directly or indirectly) the shareholders of CEMEX Parent (including any payment in connection with any redemption, repurchase, defeasance, retirement or repayment of the share capital of CEMEX Parent);

(iii) Capital Expenditure incurred by CEMEX Parent or its Subsidiaries exceeding an aggregate amount of:

(A) US$40,000,000 (or its equivalent in other currencies) for the financial year ending 31 December 2009;

(B) US$60,000,000 (or its equivalent in other currencies) for the financial year ending 31 December 2010; and

(C) US$60,000,000 (or its equivalent in other currencies) for the financial year ending 31 December 2011,

(and for these purposes "**Capital Expenditure**" means Maintenance Capital Expenditure and Expansion Capital Expenditure taken together (where "**Maintenance Capital Expenditure**" means expenses or investments made for the maintenance or replacement of existing plant and equipment used for the business of CEMEX Parent or its Subsidiaries and " **Expansion Capital Expenditure**" means expenses or investments which is not Maintenance Capital Expenditure and is made for the expansion of any production or distribution facilities of CEMEX Parent or its Subsidiaries)) and **provided that** this Clause 23.19 (*Financial Indebtedness*) shall only apply if:

(i) on the date of any incurrence of Relevant Financial Indebtedness and, for these purposes only, after giving effect thereto on a pro forma basis (as if such Relevant Financial Indebtedness had been incurred on the first day of the Relevant Period for which the ratio of Net Borrowings to Adjusted EBITDA has then been most recently tested pursuant to Clause 22.3 (*Financial testing*)), the ratio of Net Borrowings to Adjusted EBITDA is greater than or equal to 3.5 to 1.0; or

(ii) an Event of Default has occurred and is continuing or would result from the incurrence of such Relevant Financial Indebtedness.

(b) Paragraph (a) above does not apply to:

(i) any Subordinated Debt or other amounts which are made available in a form which satisfies the Spanish law requirements of *préstamos participativos*;

(ii) other Financial Indebtedness subordinated on terms satisfactory to the Majority Lenders which is used to repay or prepay CEMEX Capital Contributions or pay Royalty Expenses; or

(iii) Financial Indebtedness owed to another member of the Group.

24. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 24 is an Event of Default.

24.1 Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable

unless such failure to pay is caused by an administrative error or technical difficulties within the banking system in relation to the transmission of funds and payment is made within three Business Days of its due date.

24.2 **Financial Covenants**

Any requirement of Clause 22 (*Financial Covenants*) is not satisfied.

24.3 **Other obligations**

(a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 24.1 (*Non-payment*) and Clause 22 (*Financial covenants*)).

(b) No Event of Default under paragraph (a) of this Clause 24.3 above will occur if the failure to comply is capable of remedy and is remedied within fifteen Business Days of the Agent giving written notice to the Company or the Company becoming aware of the failure to comply whichever is the earlier.

24.4 **Misrepresentation**

Any representation or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

24.5 **Cross acceleration**

(a) Any Financial Indebtedness of any Obligor or member of the Group is not paid when due nor within any originally applicable grace period.

(b) Any Financial Indebtedness of any Obligor or member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

(c) No Event of Default will occur under this Clause 24.5 if the aggregate amount of Financial Indebtedness falling within paragraphs (a) and (b) of this Clause 24.5 above is less than $50,000,000 (or its equivalent in any other currency or currencies).

24.6 **Insolvency**

(a) Any of the Obligors or Material Subsidiaries is unable or admits inability to pay its debts as they fall due or, by reason of actual or anticipated financial difficulties, suspends making payments on any of its debts or commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.

(b) The value of the assets of any of the Obligors or Material Subsidiaries is less than its liabilities (taking into account contingent and prospective liabilities).

(c) A moratorium is declared in respect of any indebtedness of any of the Obligors or Material Subsidiaries.

24.7 **Insolvency proceedings**

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

(a) a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any of the Obligors or Material Subsidiaries other than a solvent liquidation or reorganisation of any of the Material Subsidiaries not being Obligors;

(b) a composition, assignment or arrangement with any class of creditor of any of the Obligors or Material Subsidiaries;

(c) the appointment of a liquidator (other than in respect of a solvent liquidation of any of the Material Subsidiaries not being Obligors), receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any of the Obligors or Material Subsidiaries or any of their assets;

or any analogous procedure or step is taken in any jurisdiction.

This paragraph shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 60 days of commencement.

24.8 **Expropriation and sequestration**

Any expropriation or sequestration affects any asset or assets of any Obligor or any Material Subsidiary and has a Material Adverse Effect.

24.9 **Creditors' process and enforcement of Security**

(a) Any Security is enforced against any Obligor or any Material Subsidiary.

(b) Any attachment, distress or execution affects any asset or assets of any Obligor or any Material Subsidiary which is reasonably likely to cause a Material Adverse Effect.

(c) No Event of Default under paragraphs (a) or (b) of this Clause 24.9 above will occur if:

(i) the action is being contested in good faith by appropriate proceedings;

(ii) the principal amount of the indebtedness secured by such Security or in respect of which such attachment, distress or execution is carried out represents less than $50,000,000 (or its equivalent in any other currency or currencies); and

(iii) the enforcement proceedings, attachment, distress or execution is or are discharged within 60 days of commencement.

24.10 **Failure to comply with judgment**

Any Obligor or any Material Subsidiary fails to comply with or pay any sum due from it under any judgment or any order made or given by any court of competent jurisdiction save unless payment of any such sum is suspended pending an appeal.

24.11 **Unlawfulness**

It is or becomes unlawful for an Obligor to perform any of its obligations under the Finance Documents where non-performance is reasonably likely to cause a Material Adverse Effect.

24.12 **Repudiation**

An Obligor repudiates a Finance Document or evidences an intention to repudiate a Finance Document.

24.13 **Change of Control**

If CEMEX Parent ceases to:

(a) be entitled to (whether by way of ownership of shares (directly or indirectly), proxy, contract, agency or otherwise):

(i) cast, or control the casting of, at least 51 per cent. of the maximum number of votes that might be cast at a general meeting of the Company;

(ii) appoint or remove all, or the majority, of the directors or other equivalent officers of the Company;

(iii) give directions with respect to the operating and financial policies of the Company which the directors or other equivalent officers of the Company are obliged to comply with; or

(b) hold at least 51 per cent. of the common shares in the Company.

24.14 **Material adverse change**

Any material adverse change arises in the financial condition of the Group taken as a whole which the Majority Lenders reasonably determine would result in the failure by any Obligor to perform its payment obligations under any of the Finance Documents.

24.15 **Acceleration**

On and at any time after the occurrence of an Event of Default the Agent may, while such Event of Default is continuing and shall if so directed by the Majority Lenders, by notice to the Company:

(a) cancel the Total Commitments whereupon they shall immediately be cancelled;

(b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or

declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders.

SECTION 9
CHANGES TO PARTIES

25. CHANGES TO THE LENDERS

25.1 Assignments and transfers by the Lenders

Subject to this Clause 25, a Lender (the "**Existing Lender**") may:

(a) assign any of its rights and benefits in respect of any Utilisation; or

(b) transfer by novation any of its rights, benefits and obligations in respect of any Commitment or any Utilisation,

to another bank or financial institution or to a securitisation trust or fund or (subject to paragraph (a) of Clause 25.2 (*Conditions of assignment or transfer*)) other entity (the "**New Lender**").

25.2 Conditions of assignment or transfer

(a) The Borrower must be given prior notification of any assignment or transfer becoming effective under Clause 25.1 (*Assignments and transfers by the Lenders*) and the consent of the Company is required for an assignment or transfer to an entity which is not a bank or financial institution or a securitisation trust or fund.

(b) The consent of the Company to an assignment or transfer must not be unreasonably withheld or delayed. The Company will be deemed to have given its consent five Business Days after the Existing Lender has requested it unless consent is expressly refused by the Company within that time.

(c) An assignment will only be effective on:

(i) receipt by the Agent of written confirmation from the New Lender that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it was an Original Lender; and

(ii) the satisfaction of the Agent with the results of all "know your client" or other checks relating to the identity of any person that it is required by law to carry out in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender.

(d) A transfer will only be effective if the procedure set out in Clause 25.5 (*Procedure for transfer*) is complied with.

(e) If:

(i) a Lender assigns or transfers any of its rights, benefits or obligations under the Finance Documents or changes its Facility Office; and

(ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 14 (*Tax gross-up and indemnities*) or Clause 15 (*Increased costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

(f) In addition to the other assignment rights provided in this Clause 25, each Lender may assign, as collateral or otherwise, any of its rights under this Agreement (including rights to payments of principal or interest on the Loans) to any trustee for the benefit of the holders of such Lender's securities **provided that** no such assignment shall release the assigning Lender from any of its obligations under this Agreement.

25.3 **Assignment or transfer fee**

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of US$2,000, except no such fee shall be payable in connection with an assignment or transfer to a New Lender upon primary syndication of the Facilities.

25.4 **Limitation of responsibility of Existing Lenders**

(a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

(i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;

(ii) the financial condition of any Obligor;

(iii) the performance and observance by any Obligor of its obligations under the Finance Documents or any other documents; or

(iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law or regulation are excluded.

(b) Each New Lender confirms to the Existing Lender, and the other Finance Parties that it:

(i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and

(ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

(c) Nothing in any Finance Document obliges an Existing Lender to:

(i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause 25; or

(ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

25.5 **Procedure for transfer**

(a) Subject to the conditions set out in Clause 25.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (b) below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate and send a copy to the Company.

(b) On the Transfer Date:

(i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights, and obligations under the Finance Documents each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the "**Discharged Rights and Obligations**");

(ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

(iii) the Agent, the Arranger, the New Lender and the other Lenders, shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Arranger and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and

(iv) the New Lender shall become a Party as a "Lender".

25.6 **Copy of Transfer Certificate to Borrower**

The Agent shall, as soon as reasonably practicable after it has received a Transfer Certificate, send to the Company a copy of that Transfer Certificate.

25.7 **Disclosure of information**

Any Lender may disclose to any of its Affiliates and any other person:

(a) to (or through) whom that Lender assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under the Finance Documents;

(b) with (or through) whom that Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, the Finance Documents; or

(c) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation,

any information about any Obligor, the Group and the Finance Documents as that Lender shall consider appropriate **provided that** the person to whom the information is to be given has entered into a Confidentiality Undertaking.

25.8 **Interest**

All interest accrued in the Interest Period in which a transfer is effective shall be paid to the Existing Lender.

25.9 **Security over Lenders' rights**

In addition to the other rights provided to Lenders under this Clause 25, each Lender may without consulting with or obtaining consent from any Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

(a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and

(b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment of Security shall:

(i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or

(ii) require any payments to be made by an Obligor or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Finance Documents.

26. CHANGES TO THE OBLIGORS

26.1 **Assignment and Transfers by Obligors**

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

26.2 **Additional Borrowers**

(a) Subject to compliance with the provisions of paragraphs (b) and (c) of Clause 21.6 (*"Know your client" checks*), the Company may request that any of its wholly owned Subsidiaries which is not a dormant Subsidiary becomes an Additional Borrower. That Subsidiary shall become an Additional Borrower if:

(i) all the Lenders approve the addition of that Subsidiary;

(ii) the Company and that Subsidiary deliver to the Agent a duly completed and executed Accession Letter;

(iii) the Subsidiary is (or becomes) a Guarantor prior to becoming a Borrower;

(iv) the Company confirms that no Default is continuing or would occur as a result of that Subsidiary becoming an Additional Borrower; and

(v) the Agent has received all of the documents and other evidence listed in Part II (*Conditions precedent to be delivered by an Additional Obligor*) of Schedule 2 in relation to that Additional Borrower, each in form and substance satisfactory to the Agent.

(b) The Agent shall notify the Company and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part II (*Conditions precedent to be delivered by an Additional Obligor*) of Schedule 2.

26.3 **Additional Guarantors**

(a) Subject to compliance with the provisions of paragraphs (b) and (c) of Clause 21.6 (*"Know your client" checks*), the Company may request that any of its wholly owned Subsidiaries become an Additional Guarantor.

(b) The Company shall procure that in respect of each of its Subsidiaries which is or which is deemed to be a Material Subsidiary, such Subsidiary or the Holding Company of such Material Subsidiary (at the election of the Company) or such person respectively become an Additional Guarantor (unless such Subsidiary or such Material Subsidiary (in the case of (i) and (ii) respectively) is already a Guarantor) by:

(i) the Company delivering to the Agent a duly-completed and executed Accession Letter; and

(ii) the Agent receiving from the Company all of the documents and other evidence referred to in Part II (*Conditions Precedent required to be delivered by an Additional Obligor*) of Schedule 2 in relation to that Additional Guarantor.

(c) The Agent shall notify the Guarantors and the Lenders promptly upon being satisfied that it has received all the documents and other evidence listed in Part II (*Conditions Precedent required to be delivered by an Additional Obligor*) of Schedule 2.

(d) For the purposes of this Clause 26.3 only, a "**Holding Company**" means, in relation to a Material Subsidiary, any company or corporation in respect of which it is a Subsidiary and which is not in turn a Subsidiary of a Holding Company (as defined in Clause 1.1 (*Definitions*)).

26.4 **Resignation of Guarantor**

A Guarantor (a "**Resigning Guarantor**") will cease to be a Guarantor if:

(a) it makes a sale, lease, transfer or other disposal of all or substantially all (but not a part only) of its assets to another member of the Group which is or becomes a Guarantor in accordance with paragraph (a)(i) of Clause 26.3 (*Additional Obligors*); or

(b) its Holding Company becomes a Guarantor; or

(c) it notifies the Agent that it has no assets and provides the Agent with a certificate signed by a director of the Company confirming that it has no assets,

provided that:

(i) such Resigning Guarantor also, if applicable, ceases concurrently to be a guarantor in respect of any other indebtedness of the Group or of any member of the Group;

(ii) such Resigning Guarantor notifies the Agent of any sale, lease, transfer or other disposal in accordance with paragraph (a) of this Clause 26.4; and

(iii) the Company may not resign as a Guarantor without the consent of all Lenders.

26.5 **Removal of Guarantor**

(a) In the event that the Company delivers to the Agent a certificate (" **Guarantor Removal Certificate**") signed by two authorised signatories of the Company confirming that (as at the date of the Guarantor Removal Certificate) a substantial part of the Net Borrowings of the Group:

(i) is guaranteed only by the Company and/or any other guarantors which are not Guarantors (whether, for the avoidance of doubt, as a result of the repayment, redemption, maturity or cancellation of any Financial Indebtedness, or any agreement with any creditor of the Group or as a result of any other reason); and/or

(ii) (A) is subject to provisions in any agreements or documents (including this Agreement) with any creditor of the Group (or any other party) relating to any Financial Indebtedness of the Group, which allow for the removal of all or any of the Guarantors as guarantors pursuant to such agreements or documents (other than the Company, such that the only remaining guarantors of such Financial Indebtedness would in each case be the Company and/or any other guarantors which are not Guarantors), and (B) the conditions (if any) to such removal pursuant to such

agreements or documents have been met by the relevant Guarantor, and (C) any or all of the Guarantors (other than the Company) has or have been removed (or will be so removed at a date which is not later than the date scheduled for removal of the relevant Guarantor pursuant to the relevant Guarantor Removal Certificate) as guarantors of the relevant Financial Indebtedness pursuant to such agreements or other documents,

the obligations of the relevant Guarantor(s) (other than the Company) under the guarantee and indemnity contained in Clause 19 (*Guarantee and Indemnity*) shall terminate and such Guarantor(s) shall be deemed to be discharged in full, and shall cease to be Guarantor(s), effective as at the date indicated in the Guarantor Removal Certificate, which date shall not be earlier than 10 days of receipt by the Agent of the Guarantor Removal Certificate, **provided always that** any such termination and discharge pursuant to this Clause 26.5 would not result in a downgrading of the then current Rating of the Company assigned by S&P or Fitch Investors Service, Inc.

(b) For the purposes of this Clause 26.5, a "**substantial part**" shall mean an aggregate amount equal to or greater than 85 per cent. of the aggregate value of the Net Borrowings of the Group.

The "**Net Borrowings**" of the Group referred to in this Clause shall be determined by reference to the most recent Compliance Certificate delivered to the Agent pursuant to Clause 21.2 (*Compliance Certificate*) at the date of the relevant Guarantor Removal Certificate.

(c) For the avoidance of doubt, the Guarantor Removal Certificate shall also:

(i) specify the percentage of the Net Borrowings of the Group which is guaranteed only by the Company and/or any other guarantors which are not Guarantors;

(ii) specify the percentage of the Net Borrowings of the Group which is subject to provisions in agreements or documents which allow for the removal of the Guarantors (other than the Company); and

(iii) certify that the conditions (if any) to the removal of such Guarantors in such agreements or documents have been met by the relevant member of the Group as at the date of the Guarantor Removal Certificate;

(iv) certify that the relevant Guarantor(s) has or have been removed (or will be so removed at a date which is not later than the date scheduled for removal of the relevant Guarantor pursuant to the relevant Guarantor Removal Certificate) as Guarantor(s) of the relevant Financial Indebtedness; and

(v) confirm that neither S&P nor Fitch Investors Service, Inc will downgrade the then current Rating assigned to the Company as a result of the removal of the relevant Guarantor(s) as Guarantor(s) under this Agreement.

(d) Following delivery of the Guarantor Removal Certificate to the Agent, the Company shall provide notice of the removal, and termination of the obligations of the Guarantors (other than the Company) to the Finance Parties, in accordance with Clause 32 (*Notices*) of the Agreement.

26.6 **Repetition of Representations**

Delivery of an Accession Letter constitutes confirmation by the relevant Affiliate that the Repeating Representations are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

SECTION 10
THE FINANCE PARTIES

27. ROLE OF THE AGENT AND THE ARRANGER

27.1 Appointment of the Agent

(a) Each of the Arranger and the Lenders appoints the Agent to act as its agent under and in connection with the Finance Documents.

(b) Each of the Arranger and the Lenders, authorises the Agent to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

27.2 Duties of the Agent

(a) The Agent shall promptly forward to a Party the original or a copy of any document (including, but not limited to, the Company's annual financial statements) which is delivered to the Agent for that Party by any other Party.

(b) The Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(c) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.

(d) If the Agent is aware of the non-payment of any principal, interest or fee payable to a Finance Party (other than the Agent or the Arranger) under this Agreement it shall promptly notify the other Finance Parties.

(e) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

27.3 Role of the Arranger

Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

27.4 No fiduciary duties

(a) Nothing in this Agreement constitutes the Agent and/or the Arranger, as a trustee or fiduciary of any other person.

(b) Neither the Agent nor the Arranger shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

27.5 Business with the Group

The Agent and the Arranger may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

27.6 **Rights and discretions**

(a) The Agent may rely on:

(i) any representation, notice or document (including, for the avoidance of doubt, any representation, notice or document communicating the consent of the Majority Lenders pursuant to Clause 36.1 (*Required consents*)) believed by it to be genuine, correct and appropriately authorised; and

(ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

(b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:

(i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 24.1 (*Non-payment*));

(ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and

(iii) any notice or request made by the Company (other than a Utilisation Request) is made on behalf of and with the consent and knowledge of all the Obligors.

(c) The Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.

(d) The Agent may act in relation to the Finance Documents through its personnel and agents.

(e) The Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.

(f) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Arranger, is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law and regulation or a breach of a fiduciary duty or duty of confidentiality.

27.7 **Majority Lenders' instructions**

(a) Unless a contrary indication appears in a Finance Document, the Agent shall (i) exercise any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by the Majority Lenders (or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders.

(b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders will be binding on all the Finance Parties.

(c) The Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders) until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.

(d) In the absence of instructions from the Majority Lenders, (or, if appropriate, the Lenders) the Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.

(e) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.

27.8 **Responsibility for documentation**

Neither the Agent nor the Arranger:

(a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Agent, the Arranger, an Obligor or any other person given in or in connection with any Finance Document or the Information Memorandum; or

(b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document.

27.9 **Exclusion of liability**

(a) Without limiting paragraph (b) below, neither the Agent nor the Arranger will be liable for any action taken by it under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct or wilful breach of any Finance Document.

(b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Agent may rely on this Clause 27 subject to Clause 1.4 (*Third Party Rights*) and the provisions of the Third Parties Act.

(c) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.

(d) Nothing in this Agreement shall oblige the Agent or the Arranger to carry out any checks pursuant to any laws or regulations relating to money laundering in relation to any person on behalf of any Lender and each Lender confirms to the Agent and the Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Arranger.

27.10 **Lenders' indemnity to the Agent**

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by an Obligor pursuant to a Finance Document).

27.11 **Resignation of the Agent**

(a) The Agent may resign and appoint one of its Affiliates acting through an office in the European Union as successor by giving notice to the other Finance Parties and the Company.

(b) Alternatively the Agent may resign by giving notice to the other Finance Parties and the Company, in which case the Majority Lenders (after consultation with the Company) may appoint a successor Agent.

(c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the Agent (after consultation with the Company) may appoint a successor Agent (acting through an office in the European Union).

(d) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.

(e) The Agent's resignation notice shall only take effect upon the appointment of a successor.

(f) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 27.11. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

(g) After consultation with the Company, the Majority Lenders may, by notice to the Agent, require it to resign in accordance with paragraph (b) above. In this event, the Agent shall resign in accordance with paragraph (b) above.

27.12 **Confidentiality**

(a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.

(c) Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent and the Arranger are obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

27.13 **Relationship with the Lenders**

(a) The Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five Business Days prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

(b) Each Lender shall supply the Agent with any information required by the Agent in order to calculate the Mandatory Cost in accordance with Schedule 4 (*Mandatory Cost Formulae*).

27.14 **Credit appraisal by the Finance Parties**

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Finance Party confirms to the Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

(a) the financial condition, status and nature of each member of the Group;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

(c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and

(d) the adequacy, accuracy and/or completeness of the Information Memorandum, and any other information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.

27.15 **Reference Banks**

If a Reference Bank (or, if a Reference Bank is not a Lender, the Lender of which it is an Affiliate) ceases to be a Lender, the Agent shall (in consultation with the Company) appoint another Lender or an Affiliate of a Lender to replace that Reference Bank.

27.16 **Agent's Management Time**

Any amount payable to the Agent under Clause 16.3 (*Indemnity to the Agent*) and Clause 27.10 (*Lenders' indemnity to the Agent*) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Company and the Lenders, and is in addition to any fee paid or payable to the Agent under Clause 13 (*Fees*).

27.17 **Deduction from amounts payable by the Agent**

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

28. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

(a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;

(b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or

(c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

29. SHARING AMONG THE FINANCE PARTIES

29.1 **Payments to Finance Parties**

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from an Obligor other than in accordance with Clause 30 (*Payment mechanics*) (whether by way of set-off or otherwise) and applies that amount to a payment due under the Finance Documents then:

(a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;

(b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 30 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and

(c) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the " **Sharing Payment**") equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 30.5 (*Partial payments*).

29.2 **Redistribution of payments**

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) in accordance with Clause 30.5 (*Partial payments*).

29.3 **Recovering Finance Party's rights**

(a) On a distribution by the Agent under Clause 29.2 (*Redistribution of payments*), the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in the redistribution.

(b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the relevant Obligor shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

29.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

(a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 29.2 (*Redistribution of payments*) shall, upon request of the Agent, pay to the Agent for account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay); and

(b) that Recovering Finance Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Finance Party for the amount so reimbursed.

29.5 **Exceptions**

(a) This Clause 29 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.

(b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

(i) it notified that other Finance Party of the legal or arbitration proceedings; and

(ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

SECTION 11
ADMINISTRATION

30. PAYMENT MECHANICS

30.1 Payments to the Agent

(a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payments by Obligors or Lenders shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London) with such bank as the Agent specifies.

30.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 30.3 (*Distributions to an Obligor*), Clause 30.4 (*Clawback*) and Clause 27.17 (*Deduction from amounts payable by the Agent*) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London).

30.3 Distributions to an Obligor

The Agent may (with the consent of the Obligor or in accordance with Clause 31 (*Set-Off*)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

30.4 Clawback

(a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

(b) If the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

30.5 **Partial payments**

(a) If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor under the Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:

(i) **first**, in or towards payment *pro rata* of any unpaid fees, costs and expenses of the Agent and the Arranger under the Finance Documents;

(ii) **secondly**, in or towards payment *pro rata* of any accrued interest, fee or commission due but unpaid under this Agreement;

(iii) **thirdly**, in or towards payment *pro rata* of any principal due but unpaid under this Agreement; and

(iv) **fourthly**, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.

(b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.

(c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

(d) The Lenders hereby expressly agree that the Agent shall not apply any amount received in accordance with paragraph (a) above to discharge the obligations of an Obligor owed to a Lender if such partial payment received by the Agent is as a result of that Lender being considered as a subordinated creditor by operation of any insolvency law.

30.6 **No set-off by Obligors**

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

30.7 **Business Days**

(a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or an Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

30.8 **Currency of account**

(a) Subject to paragraphs (b) to (e) below, the Base Currency is the currency of account and payment for any sum due from an Obligor under any Finance Document.

(b) A repayment of a Utilisation or Unpaid Sum or a part of a Utilisation or Unpaid Sum shall be made in the currency in which that Utilisation or Unpaid Sum is denominated on its due date.

(c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

(d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

(e) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

30.9 **Change of currency**

(a) Unless otherwise prohibited by law or regulation, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Company); and

(ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other rounded up or down by the Agent (acting reasonably).

(b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Company) specifies to be necessary be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

31. SET-OFF

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

32. NOTICES

32.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter or (in accordance with Clause 32.5 (*Electronic Communication*)) by email.

32.2 **Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

(a) in the case of the Company:

Address: Calle Hernández de Tejada No. 1
28027 Madrid
Spain

Fax: 00 34 91 377 6500
Attention: Finance Department - Hector Vela;

(b) in the case of each Lender, or any other Obligor, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and

(c) in the case of the Agent:

Address: Loans Agency Office, 2nd Floor
4 Harbour Exchange Square
London E14 9GE

Fax: 00 44 208 636 3824
Attention: Bianca Ann Els,

or any substitute address or fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

32.3 **Delivery**

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(i) if by way of fax, when received in legible form; or

(ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 32.2 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's signature below (or any substitute department or officer as the Agent shall specify for this purpose).

(c) All notices from or to an Obligor shall be sent through the Agent. The Company may make and/or deliver as agent of each Obligor notices and/or requests on behalf of each Obligor.

(d) Any communication or document made or delivered to the Company in accordance with this Clause 32.3 will be deemed to have been made or delivered to each of the Obligors.

32.4 **Notification of address and fax number**

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to Clause 32.2 (*Addresses*) or changing its own address or fax number, the Agent shall notify the other Parties.

32.5 **Electronic communication**

(a) Any communication to be made between the Agent and a Lender and/or any member of the Group under or in connection with the Finance Documents may be made by electronic mail or other electronic means, if the Agent and the relevant Lender and/or member of the Group:

(i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;

(ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

(iii) notify each other of any change to their address or any other such information supplied by them.

(b) Any electronic communication made between the Agent and a Lender and/or any member of the Group will be effective only when actually received in readable form and in the case of any electronic communication made by a Lender and/or any member of the Group to the Agent only if it is addressed in such a manner as the Agent shall specify for this purpose.

32.6 **English language**

(a) Any notice given under or in connection with any Finance Document must be in English.

(b) All other documents provided under or in connection with any Finance Document must be:

(i) in English or Spanish; or

(ii) if not in English or Spanish, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

32.7 **Obligor Agent**

(a) Each Obligor (other than the Company) by its execution of this Agreement or an Accession Letter (as the case may be) irrevocably appoints the Company to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises (i) the Company on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to

give all notices and instructions (including, in the case of a Borrower, Utilisation Requests or Extension Requests), to execute on its behalf any documents required hereunder and to make such agreements capable of being given or made by any Obligor notwithstanding that they may affect such Obligor, without further reference to or consent of such Obligor; and (ii) each Finance Party to give any notice, demand or other communication to such Obligor pursuant to the Finance Documents to the Company on its behalf, and in each case such Obligor shall be bound thereby as though such Obligor itself had given such notices and instructions (including, without limitation, any Utilisation Requests or Extension Requests) or executed or made such agreements or received any notice, demand or other communication.

(b) Every act, agreement, undertaking, settlement, waiver, notice or other communication given or made by the Company, or given to the Company, in its capacity as agent in accordance with paragraph (a) of this Clause 32.7, in connection with this Agreement shall be binding for all purposes on such Obligors as if the other Obligors had expressly made, given or concurred with the same. In the event of any conflict between any notices or other communications of the Company and any other Obligor, those of the Company shall prevail.

32.8 **Use of Websites**

(a) The Company may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the " **Website Lenders**") who accept this method of communication by posting this information onto an electronic website designated by the Company and the Agent (the "**Designated Website**") if:

(i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;

(ii) both the Company and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and

(iii) the information is in a format previously agreed between the Company and the Agent.

If any Lender (a "**Paper Form Lender**") does not agree to the delivery of information electronically then the Agent shall notify the Company accordingly and the Company shall supply the information to the Agent in paper form. In any event the Company shall supply the Agent with at least one copy in paper form of any information required to be provided by it.

(b) The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Company and the Agent.

(c) The Company shall promptly upon becoming aware of its occurrence notify the Agent if:

(i) the Designated Website cannot be accessed due to technical failure;

(ii) the password specifications for the Designated Website change;

(iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;

(iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or

(v) the Company becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Company notifies the Agent under paragraph (c)(i) or paragraph (c)(v) above, all information to be provided by the Company under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

(d) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Company shall comply with any such request within ten Business Days.

33. CALCULATIONS AND CERTIFICATES

33.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

33.2 Certificates and Determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

33.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days, or where the interest, commission or fee is to accrue in respect of any amount denominated in sterling, 365 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

33.4 Spanish Civil Procedure

In the event that this Agreement is raised to a Spanish Public Documents, for the purposes of Article 572.2 of the Spanish Civil Procedure Law (*Ley de Enjuiciamiento Civil*), all parties expressly agree that the exact amount due at any time by the Obligors to the Lenders will be the amount specified in a certificate issued by the Agent (and/or any Lender) in accordance with Clause 33.2 (*Certificates and Determinations*) as representative of the Lenders reflecting the balance of the accounts referred to in Clause 33.1 (*Accounts*).

33.5 **No personal liability**

If an individual signs a certificate on behalf of any member of the Group and the certificate proves to be incorrect, the individual will incur no personal liability as a result, unless the individual acted fraudulently in giving the certificate. In this case any liability of the individual will be determined in accordance with applicable law.

34. PARTIAL INVALIDITY

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the laws or regulations of any other jurisdiction will in any way be affected or impaired.

35. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party or Finance Party, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law or regulation.

36. AMENDMENTS AND WAIVERS

36.1 **Required consents**

(a) Subject to Clause 36.2 (*Exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Company and any such amendment or waiver will be binding on all Parties.

(b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 36.

(c) The Company may effect, as agent of each Obligor, any amendment or waiver permitted by this Clause 36.

36.2 **Exceptions**

(a) An amendment or waiver that has the effect of changing or which relates to:

(i) the definition of "Majority Lenders" or "Optional Currency" in Clause 1.1 (*Definitions*);

(ii) an extension to the Availability Period or to the date of any scheduled payment of any amount under the Finance Documents;

(iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;

(iv) a change in currency of payment of any amount under the Finance Documents;

(v) an increase in or an extension of any Commitment;

(vi) a change to the Borrowers or any of the Guarantors other than in accordance with Clause 26 (*Changes to the Obligors*);

(vii) any provision which expressly requires the consent of all the Lenders; or

(viii) Clause 2.2 (*Finance Parties' Rights and Obligations*), Clause 19 (*Guarantee and Indemnity*), Clause 25 (*Changes to the Lenders*), Clause 26 (*Changes to the Obligors*) or this Clause 36,

shall not be made without the prior consent of all the Lenders.

(b) An amendment or waiver which relates to the rights or obligations of the Agent or the Arranger, may not be effected without the consent of the Agent or the Arranger at such time.

37. **COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

SECTION 12
GOVERNING LAW AND ENFORCEMENT

38. GOVERNING LAW

This Agreement is governed by English law.

If any of the Original Guarantors is represented by an attorney or attorneys in connection with the signing and/or execution and/or delivery of this Agreement or any agreement or document referred to herein or made pursuant hereto and the relevant power or powers of attorney is or are expressed to be governed by the laws and regulations of a particular jurisdiction, it is hereby expressly acknowledged and accepted by the other parties hereto that such laws and regulations shall govern the existence and extent of such attorney's or attorney's authority and the effects of the exercise thereof.

39. ENFORCEMENT

39.1 Jurisdiction of English Courts

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (a "**Dispute**").

(b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) This Clause 39.1 is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law or regulation, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

39.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law or regulation, each Obligor (other than an Obligor incorporated in England and Wales):

(a) shall irrevocably appoint the Process Agent as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document and shall procure that the Process Agent confirms its acceptance of that appointment in writing on or before the date of this Agreement; and

(b) agrees that failure by the Process Agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1
THE ORIGINAL PARTIES

Part I
The Obligors

(as at the Fifth Amendment Date)

Name of Original Borrower	**Registration number (or equivalent, if any)**
CEMEX España, S.A.	Nº Hoja-Registro Mercantil, Madrid: M- 156542 NIF: A46/004214

Name of Guarantor	**Registration number (or equivalent, if any)**
CEMEX España, S.A.	Nº Hoja-Registro Mercantil, Madrid: M- 156542 NIF: A46/004214

[N.B. certain Dutch Subsidiaries were Original Guarantors at signing but were released in 2006]

Part II
The Original Lenders
(as at the Fifth Amendment Date)

Original Lender	Facility B Commitment (US$)	Facility C Commitment (US$)
Joint Bookrunners		
Banco Bilbao Vizcaya Argentaria S.A.	45,016,397.50	45,568,732.00
Banco Santander, S.A.	29,577,408.50	29,577,408.50
Calyon Corporate and Investment Bank	29,577,408.50	29,577,408.50
Citibank International PLC, Sucursal en España	22,516,397.50	23,068,732.00
Mandated Lead Arrangers		
BNP Paribas	29,125,000.00	29,125,000.00
Banco Espanol de Credito S.A.	25,375,000.00	25,375,000.00
Fortis Bank N.V.	32,000,000.00	32,000,000.00
HSBC Bank plc	22,875,000.00	22,875,000.00
Instituto de Credito Oficial	31,250,000.00	31,250,000.00
JP.Morgan Chase Bank N.A., Sucursal en España	25,375,000.00	25,375,000.00
The Royal Bank of Scotland plc	25,375,000.00	25,375,000.00
Westdeutsche Landesbank Girozentrale	25,375,000.00	25,375,000.00
Other Lenders		
BoA Netherlands Cooperative, U.A.	8,988,309.00	8,988,309.00
Barclays Bank PLC	21,563,809.00	16,988,309.00
ING Bank N.V.	14,850,229.00	14,850,229.00
Lloyds TSB Bank plc	14,322,978.00	14,322,978.00
Scotiabank Europe plc	12,070,725.00	12,070,725.00
The Bank of Tokyo-Mitsubishi UJF, Ltd., Sucursal en España	5,550,000.00	5,550,000.00
Bayerische Landesbank Girozentrale	11,104,669.00	11,104,669.00
Deutsche Bank Luxembourg S.A.	11,104,669.00	Zero
Unicredit S.p.A. - Madrid Branch	10,000,000.00	10,000,000.00
The Governor and Company of the Bank of Ireland	10,000,000.00	10,000,000.00
Intesa Sanpaolo S.p.A.	9,722,500.00	9,722,500.00
Caja Madrid	4,500,000.00	9,072,500.00

Original Lender	Facility B Commitment (US$)	Facility C Commitment (US$)
Credit Agricole d'Ile de France	10,000,000.00	10,000,000.00
Dresdner Bank AG	5,000,000.00	5,000,000.00
Société Générale	5,000,000.00	5,000,000.00
Caja de Ahorros de Galicia	2,500,000.00	2,500,000.00
IKB Deutsche Industriebank AG, Sucursal en España.	4,987,500.00	4,987,500.00
Caja de Ahorros de Asturias	4,050,000.00	4,050,000.00
BRED Banque Populaire	3,750,000.00	13,750,000.00
Centrobanca S.P.A.	12,500,000.00	12,500,000.00
Total	**525,000,000.00**	**525,000,000.00**

SCHEDULE 2

CONDITIONS PRECEDENT

Part I

Conditions Precedent to Initial Utilisation [1]

[N.B. all now satisfied]

1. **Obligors**

(a) A copy of the current constitutional documents of each Original Obligor.

(b) A power of attorney granting a specific individual or individuals sufficient power to sign the Finance Documents on behalf of each Original Obligor and a copy of a resolution of the board of directors of each Original Obligor:

(i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;

(ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and

(iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.

(c) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above in relation to the Finance Documents.

(d) A certificate of the Company (signed by an Authorised Signatory) confirming that borrowing or guaranteeing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on any Original Obligor to be exceeded.

(e) A certificate of an Authorised Signatory of the relevant Original Obligor certifying that each copy document relating to it specified in this Part I of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

2. **Transaction Documents and related documents**

A copy of the Company/Bidco Intercompany Loan Agreement in the agreed form.

3. **Finance Documents**

(a) This Agreement executed by the members of the Group party to this Agreement.

[1] Defined terms used in this Part 1 of Schedule 2 have the same meanings given to such term in the Original Facility Agreement (as defined in the Amendment and Restatement Agreement).

(b) The Syndication and Fee Letter, the Sub Underwriter Fee Letter and the Costs and Expenses Letter, each executed by all parties thereto.

4. **Legal Opinions**

(a) A legal opinion of Clifford Chance LLP, legal advisers to the Arranger and the Agent in England, as to English law substantially in the form distributed to the Original Lenders prior to signing this Agreement satisfactory to the Lenders.

(b) An opinion with respect to the laws and regulations of the Kingdom of Spain from Clifford Chance, substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(c) An opinion with respect to the laws and regulations of The Netherlands from Warendorf, substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(d) An opinion from in-house counsel of the Company, substantially in the form distributed to the Original Lenders prior to signing this Agreement.

5. **Offer Related Conditions**

(a) A copy, certified as being a true and complete copy by an Authorised Signatory of Bidco, of the Press Release, in substantially the form distributed to the Agent prior to signing of this Agreement (where any changes are not relevant to the interests of the Finance Parties).

(b) Copies, certified as being true and complete copies by an Authorised Signatory of Bidco, of each Offer Document incorporating the terms set out in the Press Release or any subsequent press announcements released by Bidco in connection with the Offer or such other changes to reflect the Offer (in each case, which are not relevant to the interests of the Finance Parties) and any other terms required by the Code or the Panel.

(c) A copy, certified as being a true and complete copy by an Authorised Signatory of Bidco, of the announcement that each Offer has become or has been declared unconditional in all respects together with a certificate from an Authorised Signatory of Bidco that in having declared each Offer unconditional it is not in breach of this Agreement.

6. **Other Documents and Evidence**

(a) The Group Structure Chart.

(b) The Funds Flow Statement.

(c) The Original Financial Statements of each Obligor.

(d) A certificate of the Company (signed by a director) certifying that the Company/Bidco Intercompany Loan Agreement is in full force and effect.

(e) Copies of forms PE 1 and PE 3 stamped by the Bank of Spain (*Banco de España*), whereby it assigns a Financial Operation Number ("**NOF**") to the Facilities and to the Company/Bidco Intercompany Loan.

Part II

Conditions Precedent Required to be

Delivered by an Additional Obligor

Obligors:

1. An Accession Letter, duly executed by the Additional Obligor and the Company.

   (a) A copy of the constitutional documents of the Additional Obligor.

   (b) A copy of a resolution of the board of directors of the Additional Obligor:

      (i) approving the terms of, and the transactions contemplated by, the Accession Letter and the Finance Documents and resolving that it execute the Accession Letter;

      (ii) authorising a specified person or persons to execute the Accession Letter and other Finance Documents on its behalf; and

      (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.

   (c) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above.

   (d) Should the legal advisers of the Lenders consider it advisable, a copy of a resolution signed by all the holders of the issued shares of the Additional Obligor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Obligor is a party.

   (e) A certificate of the Additional Obligor (signed by an Authorised Signatory) confirming that guaranteeing the Total Commitments would not cause any guaranteeing or similar limit binding on it to be exceeded.

   (f) A certificate of an Authorised Signatory of the Additional Obligor certifying that each copy document listed in this Part II of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of the Accession Letter.

2. Legal opinions

   (a) A legal opinion of the legal advisers to the Additional Obligor in form and substance reasonably satisfactory to the legal advisers of the Lenders.

   (b) A legal opinion of Clifford Chance, or other firm that can opine for the Additional Obligor if not Clifford Chance, legal advisers to the Lenders.

1. Other documents and evidence

(a) Evidence that any process agent referred to in Clause 39.2 (*Service of process*) has accepted its appointment.

(b) In relation to any Additional Borrower incorporated in Spain, a copy of form PE-1 stamped by the Bank of Spain (*Banco de Españ a*), whereby it assigns a Financial Operation Number ("**NOF**") to the accession of the such Additional Borrower.

(c) A copy of any other Authorisation or other document, opinion or assurance which the Agent considers (after having taken appropriate legal advice) to be necessary or desirable (if it has notified the Additional Obligor and the Company accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

(d) The Original Financial Statements of the Additional Guarantor.

SCHEDULE 3

UTILISATION REQUEST

From: [*Borrower*]

To: [*Agent*]

Dated:

Dear Sirs

CEMEX – US$2,300,000,000 Revolving Facilities Agreement
dated 24 September 2004 (as amended and restated on [•] 2005) (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.

2. [We wish to borrow a Loan on the following terms:

   (a) Proposed Utilisation Date: [•] (or, if that is not a Business Day, the next Business Day)

   (b) Borrower [•]

   (c) Facility to be utilised: [Facility A] [Facility B] [Facility C] **

   (d) Currency of Loan: [•]

   (e) Amount: [•] or, if less, the relevant Available Facility

   (f) Interest Period: [•]

3. We confirm that, to the extent applicable, each condition specified in Clause 4.2 (*Further Conditions Precedent*) is satisfied or waived on the date of this Utilisation Request.

4. The proceeds of this Loan should be credited to [*account*].

5. This Utilisation Request is irrevocable.

6. Terms used in this Utilisation Request which are not defined in this Utilisation Request but are defined in the Facilities Agreement shall have the meaning given to those terms in the Facilities Agreement.

Yours faithfully

_____
authorised signatory for
[the Borrower]

NOTES:

** Select the Facility to be utilised and delete references to the other Facilities.

SCHEDULE 4

MANDATORY COST FORMULAE

1. The Mandatory Cost is an addition to the interest rate to compensate Lenders for the cost of compliance with (a) the requirements of the Bank of England and/or the Financial Services Authority (or, in either case, any other authority which replaces all or any of its functions) or (b) the requirements of the European Central Bank.

2. On the first day of each Interest Period (or as soon as possible thereafter) the Agent shall calculate, as a percentage rate, a rate (the " **Additional Cost Rate**") for each Lender, in accordance with the paragraphs set out below. The Mandatory Cost will be calculated by the Agent as a weighted average of the Lenders' Additional Cost Rates (weighted in proportion to the percentage participation of each Lender in the relevant Loan) and will be expressed as a percentage rate per annum.

3. The Additional Cost Rate for any Lender lending from a Facility Office in a Participating Member State will be the percentage notified by that Lender to the Agent. This percentage will be certified by that Lender in its notice to the Agent to be its reasonable determination of the cost (expressed as a percentage of that Lender's participation in all Loans made from that Facility Office) of complying with the minimum reserve requirements of the European Central Bank in respect of loans made from that Facility Office.

4. The Additional Cost Rate for any Lender lending from a Facility Office in the United Kingdom will be calculated by the Agent as follows:

   (a) in relation to a sterling Loan:

$$\frac{AB + C(B-D) + E \times 0.01}{100 - (A+C)} \text{ per cent. per annum}$$

   (b) in relation to a Loan in any currency other than sterling:

$$\frac{E \times 0.01}{300} \text{ per cent. per annum}$$

   Where:

   A is the percentage of Eligible Liabilities (assuming these to be in excess of any stated minimum) which that Lender is from time to time required to maintain as an interest free cash ratio deposit with the Bank of England to comply with cash ratio requirements.

   B is the percentage rate of interest (excluding the Margin and the Mandatory Cost and, if the Loan is an Unpaid Sum, the additional rate of interest specified in paragraph (a) of Clause 10.3 (*Default interest*)) payable for the relevant Interest Period on the Loan.

C is the percentage (if any) of Eligible Liabilities which that Lender is required from time to time to maintain as interest bearing Special Deposits with the Bank of England.

D is the percentage rate per annum payable by the Bank of England to the Agent on interest bearing Special Deposits.

E is designed to compensate Lenders for amounts payable under the Fees Rules and is calculated by the Agent as being the average of the most recent rates of charge supplied by the Reference Banks to the Agent pursuant to paragraph 7 below and expressed in pounds per £1,000,000.

5. For the purposes of this Schedule:

(a) "**Eligible Liabilities**" and "**Special Deposits**" have the meanings given to them from time to time under or pursuant to the Bank of England Act 1998 or (as may be appropriate) by the Bank of England;

(b) "**Fees Rules**" means the rules on periodic fees contained in the FSA Supervision Manual or such other law or regulation as may be in force from time to time in respect of the payment of fees for the acceptance of deposits;

(c) "**Fee Tariffs**" means the fee tariffs specified in the Fees Rules under the activity group A.1 Deposit acceptors (ignoring any minimum fee or zero rated fee required pursuant to the Fees Rules but taking into account any applicable discount rate); and

(d) "**Tariff Base**" has the meaning given to it in, and will be calculated in accordance with, the Fees Rules.

6. In application of the above formulae, A, B, C and D will be included in the formulae as percentages (i.e. 5 per cent. will be included in the formula as 5 and not as 0.05). A negative result obtained by subtracting D from B shall be taken as zero. The resulting figures shall be rounded to four decimal places.

7. If requested by the Agent, each Reference Bank shall, as soon as practicable after publication by the Financial Services Authority, supply to the Agent, the rate of charge payable by that Reference Bank to the Financial Services Authority pursuant to the Fees Rules in respect of the relevant financial year of the Financial Services Authority (calculated for this purpose by that Reference Bank as being the average of the Fee Tariffs applicable to that Reference Bank for that financial year) and expressed in pounds per £1,000,000 of the Tariff Base of that Reference Bank.

8. Each Lender shall supply any information required by the Agent for the purpose of calculating its Additional Cost Rate. In particular, but without limitation, each Lender shall supply the following information on or prior to the date on which it becomes a Lender:

(a) the jurisdiction of its Facility Office; and

(b) any other information that the Agent may reasonably require for such purpose.

Each Lender shall promptly notify the Agent of any change to the information provided by it pursuant to this paragraph.

9. The percentages of each Lender for the purpose of A and C above and the rates of charge of each Reference Bank for the purpose of E above shall be determined by the Agent based upon the information supplied to it pursuant to paragraphs 7 and 8 above and on the assumption that, unless a Lender notifies the Agent to the contrary, each Lender's obligations in relation to cash ratio deposits and Special Deposits are the same as those of a typical bank from its jurisdiction of incorporation with a Facility Office in the same jurisdiction as its Facility Office.

10. The Agent shall have no liability to any person if such determination results in an Additional Cost Rate which over or under compensates any Lender and shall be entitled to assume that the information provided by any Lender or Reference Bank pursuant to paragraphs 3, 7 and 8 above is true and correct in all respects.

11. The Agent shall distribute the additional amounts received as a result of the Mandatory Cost to the Lenders on the basis of the Additional Cost Rate for each Lender based on the information provided by each Lender and each Reference Bank pursuant to paragraphs 3, 7 and 8 above.

12. Any determination by the Agent pursuant to this Schedule in relation to a formula, the Mandatory Cost, an Additional Cost Rate or any amount payable to a Lender shall, in the absence of manifest error, be conclusive and binding on all Parties.

13. The Agent may from time to time, after consultation with the Company and the Lenders, determine and notify to all Parties any amendments which are required by such Lender to be made to this Schedule in order to comply with any change in law or regulation or any requirements from time to time imposed by the Bank of England, the Financial Services Authority or the European Central Bank (or, in any case, any other authority which replaces all or any of its functions) and any such determination shall, in the absence of manifest error, be conclusive and binding on all Parties.

SCHEDULE 5

FORM OF TRANSFER CERTIFICATE

To: [*Agent*]

From: [*The Existing Lender*] (the "**Existing Lender**") and [*The New Lender*] (the "**New Lender**")

Dated:

CEMEX – US$2,300,000,000 Revolving Facilities Agreement
dated 24 September 2004 (as amended and restated on [•] 2005) (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Transfer Certificate. Terms defined in the Facilities Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.

2. We refer to Clause 25.5 (*Procedure for transfer*):

   (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation all or part of the Existing Lender's Commitment, rights and obligations referred to in the schedule to this certificate in accordance with Clause 25.5 (*Procedure for transfer*).

   (b) The proposed Transfer Date is [•].

   (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 32.2 (*Addresses*) are set out in the schedule to this certificate.

3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 25.4 (*Limitation of responsibility of Existing Lenders*).

4. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.

5. We confirm that we have carried out and are satisfied with the results of all compliance checks we consider necessary in relation to our participation in the Facilities.

6. This Transfer Certificate is governed by English law.

THE SCHEDULE

Commitment/rights and obligations to be transferred

[*insert relevant details*]
[*Facility Office address, email, fax number and attention details for notices and account details for payments* ,]

[Existing Lender] [New Lender]

By: By:

This Transfer Certificate is accepted by the Agent and the Transfer Date is confirmed as [•].

[Agent]

By:

SCHEDULE 6

FORM OF ACCESSION LETTER

To: [*Agent*]

From: [*Subsidiary*] and [*Company*]

Dated:

Dear Sirs

CEMEX – US$2,300,000,000 Revolving Facilities Agreement
dated 24 September 2004 (as amended and restated on [•] 2005) (the "Facilities Agreement")

1. [*Subsidiary*] agrees to become an [*Additional Guarantor/Additional Borrower*] and to be bound by the terms of the Facilities Agreement and the other Finance Documents as an [*Additional Guarantor/Additional Borrower*] pursuant to Clause 26.3 (*Additional Guarantors*)] of the Agreement. [*Subsidiary*] is a limited liability company duly incorporated under the laws of [*name of relevant jurisdiction*] with registered number [•].

2. [*Subsidiary's*] administrative details are as follows:

   Address:

   Fax No.:

   Attention:

3. This letter is governed by English law.

4. Terms which are used in this Accession Letter which are not defined in this Accession Letter but are defined in the Facilities Agreement shall have the meaning given to those terms in the Facilities Agreement.

   [This Accession Letter is entered into by deed.]**

Signed by: _____

_____

[Company] [Subsidiary]

NOTES:

* Delete as appropriate.

** If the Facilities are fully drawn there may be an issue in relation to past consideration for a proposed Additional Obligor. This can be overcome by acceding by way of deed.

SCHEDULE 7

FORM OF COMPLIANCE CERTIFICATE

To: [•] as Agent

From: [*Company*]

Dated:

Dear Sirs

CEMEX – US$2,300,000,000 Revolving Facilities Agreement
dated 24 September 2004 (as amended and restated on [•] 2005) (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2. We confirm that:

   (a) Pursuant to Clause 22.2 (*Financial condition*) the financial condition of the Group as of [ ] evidenced by the consolidated financial statements for the financial year/four quarters then ended comply with the following conditions:

   (i) **Net Borrowings** EUR ("A")

   comprising EUR [*Guarantees*]

   EUR [*Financial Indebtedness*]

   EUR [*Liquid Investments*]

   Adjusted EBITDA

   comprising:

   EUR *[operating profit*]

   EUR [*annual depreciation for fixed assets]*

   EUR [*annual amortisation of intangible assets]*

   EUR [*annual amortisation of start-up costs of the Group*]

   EUR [*dividends received from non-consolidated companies*]

   EUR [*dividends received from companies consolidated by the equity method]*

   EUR [*CEMEX Capital Contributions*]

   EUR [*acquired business (i) operating income and (ii) depreciation and amortisation expense]*

		EUR		(“**B**”)
A:B to be less than or equal to			3.5:1	
(ii) **EBITDA**		EUR		(“B”)
Finance Charges				
comprising	EUR [*interest expenses*]			
	EUR [*other expenses*]	**EUR**		(“**C**”)
B:C to be greater than or equal to			3:1	

(b) As at the date of this Certificate the following Subsidiaries of the Group fall within the definition of Material Subsidiaries as set out in Clause 1.1 (*Definitions*).

3. We confirm that no Default is continuing.

Signed: _____

Authorised Signatory
of
Company

[*insert applicable certification language*]

_____

For and on behalf of
[*name of auditors of the Company*]

SCHEDULE 8

TIMETABLES

	Loans in euro, dollars or yen	Loans in sterling
Agent notifies the Company if a currency is approved as an Optional Currency in accordance with Clause 4.3 (*Conditions relating to Optional Currencies*)	-	-
Delivery of a duly completed Utilisation Request (Clause 5.1 (*Delivery of a Utilisation Request*))	U-3 11.00 a.m.	U-1 11.00 a.m.
Agent determines (in relation to a Utilisation) the Base Currency Amount of the Loan, if required under paragraph (c) of Clause 5.4 (*Lenders' participation*) and notifies the Lenders of the Loan in accordance with Clause 5.4 (*Lenders' participation*)	U-3 3.00p.m.	U-1 3.00p.m.
Agent receives a notification from a Lender under Clause 6.2 (*Unavailability of a currency*)	U-2 9.30 a.m.	U 9.30 a.m.
Agent gives notice in accordance with Clause 6.2 (*Unavailability of a currency*)	U- 2 10.30 a.m.	U 10.30 a.m.
LIBOR or EURIBOR is fixed	Quotation Day as of 11:00 a.m. London time in respect of LIBOR and as of 11.00 a.m. Brussels time in respect of EURIBOR	Quotation Day as of 11:00 a.m.

"U" = date of utilisation
"U—X" = X Business Days prior to date of utilisation

SCHEDULE 9

FORM OF CONFIDENTIALITY UNDERTAKING

[Letterhead of Existing Bank]

To:

[insert name of Potential Lender]

Re: **The Facilities**

Company: CEMEX España, S.A. (the "**Company**")

Date:

Amount: US$[•] and €[•]

Agent: Citibank International PLC

Dear Sirs

We understand that you are considering participating in the Facilities. In consideration of us agreeing to make available to you certain information, by your signature of a copy of this letter you agree as follows:

1. *Confidentiality Undertaking*: You undertake:

   (a) to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by paragraph 2 below and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information;

   (b) to keep confidential and not disclose to anyone except as provided for by paragraph 2 below the fact that the Confidential Information has been made available or that discussions or negotiations are taking place or have taken place between us in connection with the Facilities;

   (c) to use the Confidential Information only for the Permitted Purpose;

   (d) to use all reasonable endeavours to ensure that any person to whom you pass any Confidential Information (unless disclosed under paragraph 2(b) below) acknowledges and complies with the provisions of this letter as if that person were also a party to it; and

   (e) not to make enquiries of any member of the Group or any of their officers, directors, employees or professional advisers relating directly or indirectly to the Facilities.

2. *Permitted Disclosure*: We agree that you may disclose such Confidential Information and such of those matters referred to in paragraph 1(b) above to the extent necessary for the Permitted Purpose:

   (a) to members of the Participant Group and their officers, directors, employees, professional advisers and auditors if any person to whom the Confidential Information is to be given pursuant to this paragraph 2(a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information, except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

   (b) in the event that you become a Lender under the Facility Agreement, in accordance with and subject to the terms of clause 24.8 of the Facility Agreement;

   (c) to any person to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;or

   (d) with the prior written consent of us and the Company.

3. *Notification of Disclosure*: You agree (to the extent permitted by law and regulation) to inform us:

   (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph 2(c) above except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

   (b) upon becoming aware that Confidential Information has been disclosed in breach of this letter.

4. *Return of Copies*: If we so request in writing, you shall return all Confidential Information supplied to you by us and destroy or permanently erase (to the extent technically practicable) all copies of Confidential Information made by you and use all reasonable endeavours to ensure that anyone to whom you have supplied any Confidential Information destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy, or where the Confidential Information has been disclosed under paragraph 2(c) above.

5. *Continuing Obligations*: The obligations in this letter are continuing and, in particular, shall survive the termination of any discussions or negotiations between you and us. Notwithstanding the previous sentence, the obligations in this letter shall cease on the earlier of (a) the date on which you become a party to the Facility Agreement or (b)

twelve months after the date at which you have returned all Confidential Information supplied to you by us and destroyed or permanently erased (to the extent technically practicable) all copies of Confidential Information made by you (other than any such Confidential Information or copies which have been disclosed under paragraph 2 above (other than paragraph 2(a)) or which, pursuant to paragraph 4 above, are not required to be returned or destroyed.

6. *No Representation; Consequences of Breach, etc*: You acknowledge and agree that:

   (a) neither we nor any member of the Group nor any of our or their respective officers, employees or advisers (each a " **Relevant Person**") (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by us or any member of the Group or the assumptions on which it is based or (ii) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or any member of the Group or be otherwise liable to you or any other person in respect of the Confidential Information or any such information; and

   (b) we or members of the Group may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person or member of the Group may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

7. *Entire Agreement*: This letter constitutes the entire agreement between us in relation to your obligations regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

8. *No Waiver*: No failure or delay in exercising any right or remedy under this letter will operate as a waiver thereof nor will any single or partial exercise of any right or remedy preclude any further exercise thereof or the exercise of any other right or remedy under this letter.

9. *Amendments, etc*: The terms of this letter and your obligations under this letter may only be amended or modified by written agreement between us.

10. *Inside Information*: You acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and you undertake not to use any Confidential Information for any unlawful purpose.

11. *Nature of Undertakings*: The undertakings given by you under this letter are given to us and (without implying any fiduciary obligations on our part) are also given for the benefit of the Company and each other member of the Group.

12. *Third party rights*: Subject to this paragraph 12 and to paragraphs 6 and 9, a person who is not a party to this letter has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this letter.

(a) The Relevant Persons and each member of the Group may enjoy the benefit of the terms of paragraphs 6 and 9 subject to and in accordance with this paragraph 12 and the provisions of the Third Parties Act.

(b) Notwithstanding any provisions of this letter, the parties to this letter do not require the consent of any Relevant Person or any member of the Group to rescind or vary this letter at any time.

13. *Governing Law and Jurisdiction*:

(a) This letter (including the agreement constituted by your acknowledgement of its terms) and all non-contractual obligations arising from or connected with it are governed by and shall be construed in accordance with English law.

(b) The parties submit to the non-exclusive jurisdiction of the English courts.

14. *Definitions*: In this letter (including the acknowledgement set out below):

"**Confidential Information**" means all information relating to the Company, any Obligor, the Group, the Finance Documents and/or the Facilities which is provided to you in relation to the Finance Documents or Facilities by us or any of our affiliates or advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

(a) is or becomes public information other than as a direct or indirect result of any breach of this letter;

(b) is identified in writing at the time of delivery as non-confidential by us or our advisers; or

(c) is known by you before the date the information is disclosed to you by us or any of our affiliates or advisers or is lawfully obtained by you after that date, from a source which is, as far as you are aware, unconnected with the Group and which, in either case, as far as you are aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

"**Facility Agreement**" means the facility agreement entered into or to be entered into in relation to the Facilities.

"**Finance Documents**" means the documents defined in the Facility Agreement as Finance Documents.

"**Group**" means the Company, each of its holding companies and its subsidiaries and each of the subsidiaries of each of its holding companies for the time being (as each such term is defined in the Companies Act 2006).

"**Obligor**" means a borrower or a guarantor under the Facility Agreement.

"**Participant Group**" means you, each of your holding companies and subsidiaries and each subsidiary of each of your holding companies (as each such term is defined in the Companies Act 2006).

"**Permitted Purpose**" means considering and evaluating whether to enter into the Facilities.

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

For and on behalf of
[***Existing Bank***]

To: [***Existing Bank***]
The Company and each other member of the Group

We acknowledge and agree to the above:

For and on behalf of
[***Potential Lender***]

SCHEDULE 10

EXISTING SECURITY

Company	Lender	Security	Total Principal Amount of Indebtedness Secured as of 30 June 2004 (millions of euro)
1. CEMEX Construction Materials, L.P.	GE Capital (FKIT 279,280)	Equipment related with the Credit	1.263
2. CEMEX Construction Materials, L.P.	Hampton	Land related with the Credit	0.338
3. Kosmos Cement Company	First Corp (FKIT 101649)	Equipment related with the Credit	0.035
4. Mineral Resource Technologies, Inc.	Met-South, Inc.	Ash storage facility	0.248
5. Any security existing at the date of this Agreement constituted by the transfer of shares or any other instrument of title representing an equity participation in the Asia Fund into a trust			
			1.883 and the security under item 5

SCHEDULE 11

EXISTING NOTARISATIONS

Type of Agreement	Borrower/Guarantor	Maturity Date	Total Principal Amount of Indebtedness notarised as of 30 June 2004
Bilateral lines	CEMEX España, S.A./n.a.	Between Jan. and Dec. 2005	EUR 51,086,029[2]
Deferred purchase price	Aricemex S.A./n.a.	July, 2005	EUR 961,619

[2] Corresponds to the total committed amount under the facilities. Amount drawn as of 06.30.04: EUR 18,712,797.

SCHEDULE 12

MATERIAL SUBSIDIARIES

CEMEX Inc.

CEMEX Corp.

CEMEX Venezuela SACA

Vencement Investments

Construction Funding Corporation

SCHEDULE 13

EXISTING FINANCIAL INDEBTEDNESS

As of 03.31.05
Figures in millions of €*

BORROWER	INSTRUMENT	OUTSTANDING AMOUNT	FINAL MATURITY
CEMEX UK, LTD	Loan Notes(1)	33	June 2005 - December 2009
	SUBTOTAL	**33**	
	Priv. Plac. (£70 M)(2)	102	Between 2009-2019
	Priv. Plac ($75 M)(3)	58	July 2006
RMC GROUP, LTD	Priv. Plac. ($225 M)(4)	197	Between 2010-2020
	Priv. Plac ($222 M)(5)	171	Between 2009-2014
	Other debt(6)	100	Between 2005-2014
RMC USA	Priv. Plac ($155 M)(7)	120	Between 2008-2018
	Line of Credit	5	December 2005
	Other debt at RMC subsidiary level	66	Between 2005-2016
	SUBTOTAL	**819**	
	Priv. Plac. (€50 M)	50	March 2006
CEMEX, INC.	Priv. Plac ($315 M)	244	March 2006
	Priv. Plac. ($396 M)	306	March 2008
	SBLC(8)	38	Dec 2006 - April 2025
	SUBTOTAL	**638**	
PUERTO RICAN CEMENT COMPANY	$40 M Credit Line	23	June 2005
	$50 M Credit Line	21	January 2006
	SUBTOTAL	**44**	
APO CEMENT CORP.	ECA Loan	10	July 2005 - March 2006
	SUBTOTAL	**10**	
OTHER COMPANIES	Credit Lines	30	—
	SUBTOTAL	**30**	
	TOTAL DEBT	**1.574**	

* Exchange rates:
$/€ = 1.2965
¥/€ = 138.97
€/£ = 1.4575

(1) Held by RMC Shareholders who elected to receive Loan Notes instead of cash as payment for their RMC's shares.
(2) On May 17, 2005 this issuance was fully prepaid.
(3) On May 17, 2005 Notes for an amount of $55.0 M were prepaid.
(4) On May 17, 2005 Notes for an amount of $0.7 M were prepaid.
(5) On May 17, 2005 Notes for an amount of $119.5 M were prepaid.
(6) This caption basically includes Bank Loans, Overdraft Facilities and Financial Leases.
(7) On May 17, 2005 Notes for an amount of $11.0 M were prepaid.
(8) Stand By Letters of Credit over tax-exempt bonds. Maturities shown correspond to these bonds. SBLC renewed on an annual basis.

SCHEDULE 14

PROCEEDINGS PENDING OR THREATENED

1. **Environmental Matters**

United States

As of 30 November 2008, CEMEX, Inc. and its subsidiaries had accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately U.S.$42.6 million. The environmental matters relate to (i) the disposal of various materials, in accordance with past industry practice, which might be categorized as hazardous substances or wastes, and (ii) the cleanup of sites used or operated by CEMEX, Inc., including discontinued operations, regarding the disposal of hazardous substances or wastes, either individually or jointly with other parties. Most of the proceedings are in the preliminary stage, and a final resolution might take several years. For purposes of recording the provision, CEMEX, Inc. considers that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. Based on information available to date, CEMEX, Inc. does not believe it will be required to spend significant sums on these matters, in excess of the amounts previously recorded. The ultimate cost that might be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work, and negotiations with or litigation against potential sources of recovery have been completed.

CEMEX Construction Materials Florida, LLC f/k/a Rinker Materials of Florida, Inc., a subsidiary of CEMEX, Inc., holds one federal quarry permit and is the beneficiary of one of 10 other federal quarrying permits granted for the Lake Belt area in South Florida. The permit held by CEMEX Florida covers CEMEX Florida's SCL and FEC quarries. CEMEX Florida's Krome quarry is operated under one of the other federal quarry permits. The FEC quarry is the largest of CEMEX Floridas' quarries measured by volume of aggregates mined and sold. CEMEX Florida's Miami cement mill is located at the SCL quarry and is supplied by that quarry. A ruling was issued on 22 March 2006 by a judge of the U.S. District Court for the Southern District of Florida in connection with litigation brought by environmental groups concerning the manner in which the permits were granted. Although not named as a defendant, CEMEX Florida has intervened in the proceedings to protect its interests. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the relevant governmental agencies in connection with the issuance of the permits. The judge remanded the permits to the relevant governmental agencies for further review, which review the governmental agencies have indicated in a recent announcement should take until mid February 2009 to conclude. The judge also conducted further proceedings to determine the activities to be conducted during the remand period. In July 2007, the judge issued a ruling that halted certain quarrying operations at three non-CEMEX Florida quarries. The judge left in place CEMEX Florida's Lake Belt permits until the relevant government agencies complete their review. In a May 2008 ruling, the federal appellate court determined that the district court judge did not apply the proper standard of review to the permit issuance decision of the governmental agency, vacated the district court's prior order, and remanded the proceeding to the district court to apply the proper standard of review; this review remains pending before the district court judge. If the Lake Belt permits are ultimately set aside or quarrying operations under them restricted, CEMEX Florida will need to

source aggregates, to the extent available, from other locations in Florida or import aggregates. This would likely affect profits from our Florida operations. Any adverse impacts on the Florida economy arising from the cessation or significant restriction of quarrying operations in the Lake Belt could also have a material adverse effect on our financial results.

Europe

In Great Britain, future expenditure on closed and current landfill sites has been assessed and quantified over the period in which the sites are considered to have the potential to cause environmental harm, generally consistent with the regulator view of up to 60 years from the date of closure. The assessed expenditure relates to the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure. The costs have been quantified on a net present value basis in the amount of approximately £122 million, and an accounting provision for this sum has been made at 31 December 2007.

In 2003, the European Union adopted a directive implementing the Kyoto Protocol on climate change and establishing a greenhouse gas emissions allowance trading scheme within the European Union. The directive requires Member States to impose binding caps on carbon dioxide emissions from installations involved in energy activities, the production and processing of ferrous metals, the mineral industry (including cement production) and the pulp, paper or board production business. Under this scheme, companies with operations in these sectors receive from the relevant Member States allowances that set limitations on the levels of greenhouse gas emissions from their installations. These allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that are not reaching their emissions objectives. Companies can also use credits issued from the use of the flexibility mechanisms under the Kyoto protocol to fulfill their European obligations. These flexibility mechanisms provide that credits (equivalent to allowances) can be obtained by companies for projects that reduce greenhouse gas emissions in emerging markets. These projects are referred to as Clean Development Mechanism ("**CDM**") or joint implementation projects depending on the countries where they take place. Failure to meet the emissions caps is subject to heavy penalties.

Companies can also use, up to a certain level, credits issued under the flexible mechanisms of the Kyoto protocol to fulfill their European obligations. Credits for Emission Reduction projects obtained under these mechanisms are recognized, up to a certain level, under the European emission trading scheme as allowances. To obtain these emission reduction credits, companies must comply with very specific and restrictive requirements from the United Nations Convention on Climate Change (UNFCC).

As required by directive, each of the Member States established a National Allocations Plan, or NAP, setting out the allowance allocations for each industrial facility for Phase I, from 2005 to 2007. Based on the NAPs established by the Member States of the European Union for the 2005 to 2007 period and our actual production, on a consolidated basis after trading allowances between our operations in countries with a deficit of allowances and our operations in countries with an excess of allowances, and after some external operations, Borrower's Subsidiaries had a surplus of allowances of approximately 1,050,054 tons of carbon dioxide in this Phase I.

For Phase II, comprising 2008 through 2012, however, there has been a reduction in the allowances granted by the Member States that have already approved their NAP, which may

result in a consolidated deficit in our carbon dioxide allowances during the period. We believe we may be able to reduce the impact of any deficit by either reducing carbon dioxide emissions in our facilities or by obtaining additional emission credits through the implementation of CDM projects. If we are not successful in implementing emission reductions in our facilities or obtaining credits from CDM projects, we may have to purchase a significant amount of emission credits in the market, because CEMEX has already sold a substantial amount of allowances for Phase II, the cost of which may have an impact on our operating results. As of 1 December 2008, the market value of carbon dioxide allowances for Phase II was approximately 15.45 € per ton. CEMEX is taking all the measures to minimize our exposure to this market while assuring the supply of our products to our clients.

The Spanish NAP has been finally approved by the Spanish Government, reflecting the conditions that were set forth by the European Commission. The allocations made to our installations allow us to foresee certain availability of allowances, nevertheless, there remains the uncertainty regarding the allocations that, against the reserve for new entrants, shall be requested for the new CEMEX cement plant in Andorra (Teruel), whose construction has been delayed, and that it is scheduled to start operating in 2010

On 29 May 2007, the Polish government filed an appeal before the Court of First Instance in Luxemburg regarding the European Commission's rejection of the initial version of the Polish NAP. The Court has denied Poland's request for a quick path verdict in the case, keeping the case in the regular proceeding path, therefore, the Polish government has started to prepare Polish internal rules on division of allowance at the level already accepted by the European Commission. Seven major Polish cement producers, representing 98% of Polish cement production (including CEMEX Polska), have also filed seven separate appeals before the Court of First Instance regarding the European Commission's rejection. On 29 September 2008 the Court of the First Instance issued an order rejecting CEMEX Polska's appeal without going into the merit of the case. As of 4 December 2008 the final version of the Polish NAP has not been cleared by the Commission; CEMEX has not determined the impact this may have on CEMEX's position in the country.

2. Tax Matters

Philippines

As of 30 November 2008, the Philippine Bureau of Internal Revenue (BIR), had assessed APO, Solid, IQAC, ALQC and CSPI, our operating subsidiaries in the Philippines, for deficiency taxes covering taxable years 1998-2005 amounting to a total of approximately 1,994 million Philippine Pesos (approximately U.S.$40.727 million as of 30 November 2008, based on an exchange rate of Philippine Pesos 48.96 to U.S.$1.00, which was the Philippine Peso/Dollar exchange rate on 30 November 2008 as published by the Bangko Sentral ng Pilipinas, the central bank of the Republic of the Philippines).

The majority of the tax assessments result primarily from the disallowance of APO's income tax holiday incentives for taxable years 1999 to 2001 (approximately Philippine Pesos 1,078 million or U.S.$22.1 million as of 30 November 2008, based on an exchange rate of Philippine Pesos 48.96 to U.S.$1.00). We have contested the BIR's assessment, arising from the disallowance of the ITH incentive, with the Court of Tax Appeals (CTA). The initial Division ruling of the CTA was unfavorable, but is subject to further appeal with the CTA as a whole. The assessment

is now currently on appeal with the CTA En Banc. A motion was filed with the CTA, requesting the court to hold APO totally not liable for alleged income tax liabilities for all the years covered and to this end cancel and withdraw APO's deficiency income tax assessments for taxable years 1999, 2000 and 2001 on the basis of APO's availment of the tax amnesty described below. As of 30 November 2008, resolution on the aforementioned motion is still pending.

3. **CEMEX Venezuelan Nationalization**

In furtherance of Venezuela's announced policy to nationalize certain sectors of the economy, on 18 June 2008, the Nationalization Decree was promulgated, mandating that the cement production industry in Venezuela be reserved for the Government of Venezuela and ordering the conversion of foreign-owned cement companies, including CEMEX Venezuela, into state-controlled companies with Venezuela holding an equity interest of at least 60%. The Nationalization Decree provided for the formation of a transition committee to be integrated with the board of directors of the relevant cement company to guaranty the transfer of control over all activities of the relevant cement company to Venezuela by 31 December 2008. The Nationalization Decree further established a deadline of 17 August 2008 for the shareholders of foreign-owned cement companies, including CEMEX Venezuela, to reach an agreement with the Government of Venezuela on the compensation for the nationalization of their assets. The Nationalization Decree also provided that this deadline may be extended by mutual agreement of the Government of Venezuela and the relevant shareholder. The transition committee, which was to be coordinated by the Ministry of Basic Industries (MIBAN), was never formally instituted and MIBAN never acted in the process, but instead Petroleos de Venezuela (PDVSA) conducted all the conversations.

CEMEX Venezuela and the Government did not reach agreement by the August 17 deadline, and on August 18 the Expropriation Decree was issued by the President of Venezuela, with PDVSA appointed to conduct the expropriation proceedings. Although these proceedings had not yet commenced, PDVSA officials headed a group of PDVSA workers, with the support of the public force, to take over all the facilities of CEMEX Venezuela on August 17. Since no agreement has been reached with the Venezuelan Government as to the compensation to be paid, the Dutch companies that control CEMEX Venezuela filed an arbitration request before the International Center for the Settlement of Investment Disputes against the Government of Venezuela, which request has been registered and the tribunal is in the process of being formed.

As of 31 December 2007, CEMEX Venezuela, S.A.C.A. was the holding entity of several of CEMEX's investments in the region, including CEMEX's operations in the Dominican Republic and Panama, as well as CEMEX's minority investment in Trinidad. In the wake of statements by the Government of Venezuela about the nationalization of assets in Venezuela, in April 2008, CEMEX concluded the transfer of all material non-Venezuelan investments to CEMEX España for approximately U.S.$355 million plus U.S.$112 million of net debt, having distributed all accrued profits from the non-Venezuelan investments to the stockholders of CEMEX Venezuela amounting to approximately U.S.$132 million. At this time, the net impact or the outcome of the nationalization on CEMEX's consolidated financial results cannot be reasonably estimated. The approximate net assets of CEMEX's Venezuelan operations under Mexican FRS at 31 December 2007 were approximately Ps8,973 million. Since August 2008, CEMEX no longer consolidates the financial results of CEMEX Venezuela.

On 13 June 2008, the Venezuelan securities authority initiated an administrative proceeding against CEMEX Venezuela, claiming that the company did not sufficiently inform its shareholders and the securities authority in connection with the transfer of the non-Venezuelan assets described above. The Venezuelan authority determined that CEMEX Venezuela did not comply with its disclosure obligations and imposed fines on the company, which we do not consider material, and requested the attorney general's office to review the case to determine if such non-disclosure also constituted criminal infringement.

4. **Other Legal Proceedings**

On 5 August 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia, claiming that it was liable along with the other members of the Asociación Colombiana de Productores de Concreto, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system of Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads in a manner which guarantees their service during the 20-year period for which they were originally designed, and estimate that the cost of such repair will be approximately U.S.$45 million. The lawsuit was filed within the context of a criminal investigation of two ASOCRETO officers and other individuals, alleging that the ready-mix concrete producers were liable for damages if the ASOCRETO officers were criminally responsible. The court completed the evidentiary stage, and on 17 August 2006 dismissed the charges against the members of ASOCRETO. The other defendants (one ex-director of the Distrital Institute of Development, the legal representative of the constructor and the legal representative of the contract auditor) were formally accused. The decision was appealed, and on 11 December 2006, the decision was reversed and the two ASOCRETO officers were formally accused as participants (determiners) in the execution of a state contract without fulfilling all legal requirements thereof. The first public hearing took place on 20 November 2007. In this hearing the judge dismissed an annulment petition filed by the ASOCRETO officers. The petition was based on the fact that the officers were formally accused of a different crime than the one they were being investigated for. This decision was appealed, but the decision was confirmed by the Superior Court of Bogota. On 21 January 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called El Tujuelo, as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required within a period of 10 days to deposit with the Court in cash CoP$337,800 million (approximately U.S.$195 million as of 4 June 2008, based on an exchange rate of CoP1730 to U.S.$1.00, which was the Colombian Peso/Dollar exchange rate on 4 June 2008, as published by the Banco de la República de Colombia, the central bank of Colombia), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. The measure does not affect the normal activity of the quarry. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.

On 5 August 2005, Cartel Damages Claims, SA, or CDC, filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG and other German cement companies. CDC is seeking €102 million in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002, which entities had assigned their claims to CDC. CDC is a Belgian company established by two lawyers in the aftermath of the German cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office with the express purpose of purchasing potential damages claims from cement consumers and pursuing those claims against the cartel participants. In January 2006, another entity assigned alleged claims to CDC, and the amount of damages being sought by CDC increased to €113.5 million plus interest. On February 21 2007, the District Court of Düsseldorf decided to allow this lawsuit to proceed without going into the merits of this case by issuing an interlocutory judgment. All defendants appealed. The appeal hearing took place on 22 April 2008, and the appeal was dismissed on 14 May 2008. The lawsuit will proceed at the level of court of first instance. As of 30 September 2008 only one defendant has decided to file a complaint before the Federal High Court; this will delay the case from proceeding at the level of first instance to an extent we cannot assess today. In the meantime, CDC had acquired new assigners and announced an increase in the claim to €131 million. As of 30 November 2008, we had accrued liabilities regarding this matter for a total amount of approximately €20 million.

After an extended consultation period, in April 2006, the cities of Kaštela and Solin in Croatia published their respective Master (physical) Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to Dalmacijacement, our subsidiary in Croatia, by the Government of Croatia in September 2005. During the consultation period, Dalmacijacement submitted comments and suggestions to the Master Plans, but these were not taken into account or incorporated into the Master Plan by Kaštela and Solin. Most of these comments and suggestions were intended to protect and preserve the rights of Dalmacijacement´s mining concession granted by the Government of Croatia in September 2005. Immediately after publication of the Master Plans, Dalmacijacement filed a series of lawsuits and legal actions before the local and federal courts to protect its acquired rights under the mining concessions. The legal actions taken and filed by Dalmacijacement were as follows: (i) on 17 May 2006, a constitutional appeal before the constitutional court in Zagreb, seeking a declaration by the court concerning Dalmacijacement's constitutional claim for decrease and obstruction of rights earned by investment, and seeking prohibition of implementation of the Master Plans. This cases is currently under review by the court in Croatia, and it is expected that these proceedings will continue for several years before resolution; (ii) on 17 May 2006, a possessory action against the cities of Kaštela and Solin seeking the enactment of interim measures prohibiting implementation of the Master Plans and including a request to implead the Republic of Croatia into the proceeding on our side. The municipal court in Solin issued a first instance judgment dismissing our possessory action. We filed an appeal against that judgment. The appeal has been resolved by the Solin County Court, affirming the judgment and rendering it final. The Municipal Court in Kaštela has issued a first instance judgment dismissing our possessory action. We filed an appeal against said judgment, which has since been resolved by the Kaštela Country Court, affirming the judgment and

rendering it final; (iii) on 17 May 2006, an administrative proceeding before the State Lawyer, seeking a declaration from the Government of Croatia confirming that Dalmacijacement acquired rights under the mining concessions. Dalmacijacement received State Lawyer's opinion which confirms the Dalmacijacement's acquired rights according to the previous decisions ("old concession"). The Administrative Court in Croatia has ruled in favor of Dalmacijacement, validating the legality of the mining concession granted to Dalmacijacement by the Government of Croatia. This decision is final. Currently it is difficult for Dalmacijacement to ascertain the approximate economic impact of these measures by Kaštela and Solin).

Club of Environmental Protection, a Latvian environmental protection organization (hereinafter the " **Applicant**"), has initiated a court administrative proceeding against the decision made by the Environment State Bureau (hereinafter the " **Defendant**") in order to amend the environmental pollution permit (the "**Permit**") for the Broceni Cement Plant in Latvia, owned by CEMEX SIA (the " **Disputed Decision**"). CEMEX SIA was invited to participate in the court proceedings as a third party, whose rights and legal interest may be infringed by the relevant administrative act. On 5 June 2008 the Court rendered its judgment, where it satisfied the Claimant's claim and revoked the Disputed Decision stating that it is illegal because Defendant failed to perform public inquiry in accordance with legal regulations. The judgment has been appealed by both the Defendant and CEMEX SIA before the Court of Appeal and the court will hear the case in 24 February 2009. The appellate procedure will not suspend the operation of the Permit which will remain valid throughout the court proceedings, hence CEMEX SIA is allowed to continue to perform its activities. The Permit subject to this proceeding was issued for the existing cement line, which will be fully substituted in the first half of 2009 by a new cement line currently under construction.

Exhibit 4.9.4

EXECUTION VERSION

FOURTH AMENDMENT TO CREDIT AGREEMENT

This Fourth Amendment to the Credit Agreement (as defined below), dated as of December 19, 2008 (this " Amendment No. 4"), is entered into by and among **CEMEX, S.A.B. de C.V.**, a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States (formerly known as "CEMEX, S.A. de C.V.") (the "Borrower"), **CEMEX MÉXICO, S.A. de C.V.**, a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States, **EMPRESAS TOLTECA DE MÉXICO, S.A. de C.V.**, a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States (each a " Guarantor" and together, the "Guarantors"), the several Lenders party thereto, **BARCLAYS BANK PLC, NEW YORK BRANCH**, as Administrative Agent (the " Administrative Agent").

RECITALS

A. The Borrower, the Guarantors, the Administrative Agent, the several Lenders party thereto, Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as Joint Lead Arranger and Joint Bookrunner, and Citigroup Global Markets Inc., as Documentation Agent, Joint Lead Arranger and Joint Bookrunner, are parties to that certain senior secured credit facility, dated as of May 31, 2005 in the amount of U.S.$1,200,000,000, as amended by Amendment No. 1, dated as of June 19, 2006, the Amendment and Waiver No. 2, dated as of November 30, 2006, and the Amendment and Waiver No. 3, dated as of May 9, 2007 (as now or hereafter amended, restated, waived or otherwise modified, the " Credit Agreement").

B. The Borrower has requested that the Administrative Agent and the Lenders consent to the following amendment to the Credit Agreement.

C. This Amendment No. 4 shall constitute a Transaction Document and these Recitals shall be construed as part of this Amendment No. 4.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, and of the Loans and other extensions of credit heretofore, now or hereafter made to, or for the benefit of, the Borrower by the Lenders, the Borrower, the Guarantors, the Administrative Agent, and the Lenders hereby agree as follows:

1. Definitions. Except to the extent otherwise specified herein, capitalized terms used in this Amendment No. 4 shall have the same meanings ascribed to them in the Credit Agreement.

2. Amendments. Subject to Section 5, the Credit Agreement is hereby amended as follows:

2.1 The definition for "Acquisition" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""'Acquisition" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if upon the completion of such transaction or transactions, the Borrower or any Subsidiary thereof has acquired an interest in assets comprising all or substantially all of an operating unit, division or line of business or in any Person who is deemed to be a Subsidiary under this Agreement and was not a Subsidiary prior thereto."

2.2 The definition for "Consolidated Net Debt" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Consolidated Net Debt" means, at any date, the sum (without duplication) of (a) the aggregate amount of all Debt of the Borrower and its Subsidiaries at such date, plus (b) to the extent not included in Debt, the aggregate amount of all derivative financing in the form of equity swaps outstanding at such date (except to the extent such exposure is cash collateralized) minus (c) all Temporary Investments (for the avoidance of doubt, net of any amounts pledged as cash collateral) of the Borrower and its Subsidiaries at such date."

2.3 The definition for "Consolidated Net Debt / EBITDA Ratio" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

"Consolidated Net Debt / EBITDA Ratio" means, on any date of determination, the ratio of (a) Consolidated Net Debt on such date to (b) EBITDA for the one year period ending on such date (subject to adjustment as set forth in the definition of "EBITDA").

2.4 The definition for "Debt" in Section 1.01 ("Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Debt" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee under Capital Leases, (v) all Debt of others secured by a Lien on any asset of such Person, up to the value of such asset, as recorded in such Person's most recent balance sheet, (vi) all obligations of such Person with respect to product invoices incurred in connection with export financing, (vii) all obligations of such Person under repurchase agreements for the stock issued by such Person or another Person and (viii) all Guarantees of such Person in respect of any of the foregoing. For the avoidance of doubt, Debt does not include Derivatives or Qualified Receivables Transactions. With respect to the Borrower and its Subsidiaries, the aggregate amount of Debt outstanding shall be adjusted by the Value of Debt Currency Derivatives solely for the purposes of calculating the Consolidated Net Debt / EBITDA Ratio. If the Value of Debt Currency Derivatives is a positive mark-to-market valuation for the Borrower and its Subsidiaries, then Debt shall decrease accordingly, and if the Value of Debt Currency Derivatives is a negative mark-to-market valuation for the Borrower and its Subsidiaries, then Debt shall increase by the absolute value thereof."

2.5 The definition for "EBITDA" in Section 1.01 ("Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""EBITDA" means, for any period, the sum for the Borrower and its Subsidiaries, determined on a consolidated basis of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Mexican GAAP, subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA for any applicable period pursuant to any determination of the Consolidated Net Debt / EBITDA Ratio

(but not the Consolidated Fixed Charge Coverage Ratio): (A) (i) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Disposition, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such applicable period (but when the Material Disposition is by way of lease, income received by the Borrower or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving *pro forma* effect thereto (including the incurrence or assumption of any Debt) as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any Person that subsequently shall have become a Subsidiary or was merged or consolidated with the Borrower or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Disposition or Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Borrower or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Disposition or Acquisition had occurred on the first day of such applicable period; and (B) all U.S.$/Euro EBITDA for each applicable period ending on or after December 31, 2008 will be recalculated and converted into Mexican pesos by applying the Ending Exchange Rate to each month's U.S.$/Euro EBITDA amount (such recalculated EBITDA being the " Recalculated EBITDA"), provided, that, the Required Lenders shall have the option, with respect to any Reference Period ending after December 31, 2009, to discontinue the incorporation of Recalculated EBITDA into the Consolidated Net Debt / EBITDA Ratio (the " Discontinue Option"). The Required Lenders may exercise the Discontinue Option upon notice to the Administrative Agent, who shall, acting upon the instructions of the Required Lenders, notify the Borrower of such exercise in writing (the "Notice of Discontinuance") at least thirty (30) days prior to the end of such Reference Period. Subject to the foregoing notice requirements, such Discontinue Option shall be effective for each Reference Period ending after the date of such Notice of Discontinuance to the Borrower as set forth herein."

2.6 The definition for "Mexican GAAP" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Mexican GAAP" means Mexican Financial Reporting Standards (*Normas de Información Financiera*) as in effect from time to time and consistent with those used in the preparation of the most recent audited financial statements referred to in Section 7.01; provided, however, that for purposes of Section 8.01, Mexican GAAP means Mexican Financial Reporting Standards as in effect on December 31, 2008. In the event that any change in Mexican GAAP shall occur, or the Borrower shall decide to or be required to change to IFRS, and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, then the Borrower and the Administrative Agent agree to enter into negotiations in order to amend such provisions of this Agreement so as to equitably reflect such change in Mexican GAAP with the desired result that the criteria for evaluating the Borrower's financial condition shall be the same after such change as if such change had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrower, the Administrative Agent and the Required Lenders, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such change in Mexican GAAP had not occurred."

2.7 The definition for "Qualified Receivables Transaction" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Qualified Receivables Transaction" means a sale, transfer, or securitization of receivables and related assets by the Borrower or its Subsidiaries, including a sale at a discount, provided that (i) such receivables have been sold, transferred or otherwise conveyed, directly or indirectly, by the originator thereof in a

manner that satisfies the requirements for a sale, transfer or other conveyance under the laws and regulations of the jurisdiction in which such originator is organized; (ii) at the time of the sale, transfer or securitization of receivables is put in place, the receivables are derecognized from the balance sheet of the Borrower or its Subsidiary in accordance with the generally accepted accounting principles applicable to such Person in effect as at the date of such sale, transfer or securitization; and (iii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or securitization is carried out on a non-recourse basis or on a basis where recovery is limited to the collection of receivables."

2.8 The definition for "Subsidiary" in Section 1.01 ("Certain Definitions") shall be amended by the deletion of the last sentence thereof.

2.9 The definition for "Value of Debt Currency Derivatives" in Section 1.01 ("Certain Definitions") shall be amended to include the following sentence at the end thereof:

"For the avoidance of doubt, Value of Debt Currency Derivatives is net of any amounts pledged as cash collateral."

2.10 The following definitions shall be added to Section 1.01 ("Certain Definitions") in alphabetical order:

""Acquired Debt" means, with respect to any specified Person, Debt of any other Person existing at the time such Person becomes a Subsidiary of such specified Person or assumed in connection with the acquisition of assets from such Person."

""Amendment No. 4" means the Fourth Amendment to the Credit Agreement, dated as of [•], by and among Cemex S.A.B. de C.V., as Borrower, Cemex México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as Guarantors, Barclays Bank plc, New York Branch, as Administrative Agent, and the several Lenders party thereto."

""Amendment No. 4 Effective Date" has the meaning specified in Section 5 of Amendment No. 4."

""Capital Expenditure" means, for any period, (a) the additions to property, plant and equipment and other capital expenditures of the Borrower and its Subsidiaries that are (or should be) set forth in a consolidated statement of cash flows of the Borrower for such period prepared in accordance with Mexican GAAP and (b) any Capital Leases incurred by the Borrower and its Subsidiaries during such period."

""Discontinue Option" has the meaning set forth in the definition of "EBITDA" in Section 1.01 of this Agreement."

""Discontinued EBITDA" means, for any period, the sum for Discontinued Operations of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Mexican GAAP consistently applied for such period."

""Discontinued Operations" means operations that are accounted for as discontinued operations pursuant to Mexican GAAP for which the Disposition of such assets has not yet occurred."

""Dutch Loan Agreement" means each of the Senior Unsecured Dutch Loan "A" Agreement and the Senior Unsecured Dutch Loan "B" Agreement, dated as of June 2, 2008 by and among New Sunward Holding B.V., as borrower, CEMEX, S.A.B de C.V. and CEMEX México, S.A. de C.V., as guarantors, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander,

S.A. and The Royal Bank of Scotland PLC, as joint lead arrangers and joint bookrunners, ING Capital LLC, as administrative agent and ING Bank N.V. acting through its Curaçao Branch and Caja de Madrid – Miami Agency as mandated lead arrangers."

""Ending Exchange Rate" means the exchange rate at the end of a Reference Period for U.S.$ or Euros, as the case may be, corresponding to any U.S.$/Euro EBITDA, in each case as used by the Borrower and its auditors in preparation of the Borrower's financial statements in accordance with Mexican GAAP."

""Euro" means the single currency of Participating Member States."

""Guarantee" means, as applied to any Debt of another Person, (i) a guarantee, direct or indirect, in any manner, of any part or all of such Debt and (ii) any direct or indirect obligation, contingent or otherwise, of a Person guaranteeing or having the effect of guaranteeing the Debt of any other Person in any manner. (and "Guaranteed" and "Guaranteeing" shall have meanings that correspond to the foregoing)."

""IFRS" means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements."

""Incur" means, with respect to any Debt of any Person, to create, issue, incur (by conversion, exchange or otherwise), assume, Guarantee or otherwise become liable in respect of such Debt or the recording, as required pursuant to Mexican GAAP or otherwise, of any such Debt on the balance sheet of such Person. Debt otherwise Incurred by a Person before it becomes a Subsidiary of the Borrower shall be deemed to be Incurred at the time at which such Person becomes a Subsidiary of the Borrower. "Incurrence," "Incurred," "Incurrable" and "Incurring" shall have meanings that correspond to the foregoing."

""Investment" by the Borrower or its Subsidiaries means, any direct or indirect capital contribution (by means of any transfer of cash) to another Person which is not the Borrower or its Subsidiaries, not constituting an Acquisition."

""Notice of Discontinuance" has the meaning set forth in the definition of "EBITDA" in Section 1.01 of this Agreement."

""Ordinary Course Loans" means a loan or advance: (i) made by the Borrower or any of its Subsidiaries to a supplier, vendor, customer or other similar counterparty; (ii) which is due and payable not more than eighteen (18) months after being made (and where the Debt being Incurred to fund such loan or advance has a weighted average life to maturity that is greater than such loan or advance); (iii) made on terms and under circumstances consistent with past practices of the Borrower or such Subsidiary; and (iv) the aggregate principal amount of which, when added to all other such loans and advances, does not exceed at any time U.S.$75,000,000 (or the equivalent in other currencies)."

""Participating Member State" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union."

""Permitted Debt" means, any Debt:

(a) the net proceeds of which are applied to repay, prepay or discharge the Loans or other Debt existing as at the date of such Incurrence and associated costs and expenses, so long as either: (i) the weighted average life to maturity of such new Debt is not less than the remaining weighted average life to maturity of the Debt being repaid, prepaid or otherwise discharged and the proceeds of such new Debt are applied towards such

repayment, prepayment or other discharge within fifteen (15) days of such Incurrence; or (ii) such new Debt is incurred under a liquidity facility or facilities in an aggregate principal amount not exceeding U.S.$600,000,000 outstanding at any time, provided, that, the proceeds of such new Debt are used to repay, prepay or otherwise discharge Debt outstanding on the Amendment No. 4 Effective Date (including any such Debt that has been refinanced) within fifteen (15) days of the Incurrence of such new Debt;

(b) the net proceeds of which are applied to pay obligations of the Borrower and/or its Subsidiaries arising under written agreements existing on the Amendment No. 4 Effective Date, excluding obligations in respect of Capital Expenditures, Restricted Payments and Investments;

(c) the net proceeds of which are applied for Capital Expenditures (i)(A) made from January 1, 2009 until December 31, 2009, in an aggregate amount per annum not to exceed U.S.$60,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing and (B) U.S.$40,000,000 (or the equivalent in other currencies) in all other cases; and (ii)(A) made from January 1, 2010 until December 31, 2010, and from January 1, 2011 until the Termination Date, in each case in an aggregate amount per annum not to exceed U.S.$40,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing and (B) U.S.$60,000,000 (or the equivalent in other currencies) in all other cases; provided, that, any Debt Incurred pursuant to this clause has a weighted average life to maturity that is greater than the remaining weighted average life to maturity of the Debt under this Agreement;

(d) the net proceeds of which are applied to satisfy obligations of the Borrower or any of its Subsidiaries arising in the ordinary course of business of such Person, excluding obligations in respect of (i) Capital Expenditures, (ii) Restricted Payments, (iii) Acquisitions, (iv) Investments, and (v) loans and advances made or to be made by such Person, other than Ordinary Course Loans;

(e) owed to the Borrower or any of its consolidated Subsidiaries;

(f) which has become Debt solely due to a change in Mexican GAAP;

(g) to the extent resulting from the conversion of a Loan into a Maturity Loan (as defined in each Dutch Loan Agreement) pursuant to a Dutch Loan Agreement;

(h) to the extent resulting from the closing of, or funding under, a facilities agreement with CEMEX Espana, S.A. as Borrower, CEMEX Australia Holdings Pty Limited and CEMEX, Inc. as Original Guarantors, Banco Santander, S.A. and The Royal Bank of Scotland Plc as Documentation Agents, and The Royal Bank of Scotland Plc as Facility Agent, in an aggregate amount of up to U.S.$2,000,000,000 (or the equivalent thereof in other currencies) so long as the net proceeds of which are applied to repay, prepay or discharge existing bilateral debt; or

(i) any Guarantee Incurred by the Borrower or any of its Subsidiaries for any of the Debt referred to in paragraphs (a) to (h) above."

""'Recalculated EBITDA" has the meaning set forth in the definition of "EBITDA" in Section 1.01 of this Agreement."

""Reference Period" means any period of four consecutive fiscal quarters."

""Restricted Payment" means any cash dividend or other cash distribution with respect to any Capital Stock of the Borrower, or any cash payment, including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Capital Stock, or on account of any return of capital to the Borrower's stockholders."

""SEC" means the U.S. Securities and Exchange Commission."

""Solvent" means, with respect to any Person, that such Person (a) owns and will own assets the fair saleable value of which are (i) greater than the total amount of its debts and liabilities, subordinated, contingent or otherwise; and (ii) greater than the amount that will be required to pay the probable liabilities of its then existing debts, as such debts become absolute and matured and considering all financing alternatives and potential asset sales reasonably available to it; (b) has capital that is not unreasonably small in relation to its business as presently conducted and as proposed to be conducted following the Amendment No. 4 Effective Date; (c) does not intend to incur and does not believe that it will incur debts beyond its ability to pay such debts as they become due; and (d) is not, or is not deemed to be, in general default of its obligations pursuant to the Mexican *Ley de Concursos Mercantiles*. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability. For the purposes of this definition " fair saleable value" means the aggregate amount of net consideration (giving effect to reasonable and customary costs of sale and taxes) that could be expected to be realized if the aggregate assets of the applicable entity are sold with reasonable promptness in an arm's length transaction under present conditions for the sale of assets of comparable business enterprises."

""U.S.$/Euro EBITDA" means any EBITDA of a Subsidiary of the Borrower for a particular Reference Period which is generated in U.S.$ or Euros."

2.11 Section 1.03 ("Accounting Terms and Determinations") shall be amended by the addition of "(a)" after the heading " Accounting Terms and Determinations." and the addition of a new Paragraph (b) to read as follows:

"(b) Calculations with respect to the Consolidated Net Debt/EBITDA Ratio and the Adjusted Consolidated Net Tangible Assets and the defined terms used in such calculations, when made in relation to dates other than the last day of a fiscal period, shall be made by the Borrower acting in good faith by reference to (i) the most recently available financial statements of the Borrower and its Subsidiaries (including, to the extent available, unaudited monthly financial information) as of such date and (ii) events, conditions and circumstances occurring or existing subsequent to such financial statements."

2.12 A new Section 5.22 (" Solvency") shall be added to the Credit Agreement to read as follows:

"5.22 Solvency. The Borrower and each Guarantor is, and after giving effect to the Loans and each of the transactions contemplated by this Agreement and the Transaction Documents will be, Solvent."

2.13 Paragraph (a) of Section 8.01 (" Financial Conditions") shall be deleted and replaced in its entirety with the following language:

"(a) The Borrower shall not permit the Consolidated Net Debt / EBITDA Ratio at any time to exceed:

(i) 4.50 to 1.0 during the Reference Period ending on each of December 31, 2008 and March 31, 2009;

(ii) 4.75 to 1.0 during the Reference Period ending on June 30, 2009;

(iii) 4.50 to 1.0 during the Reference Period ending on each of September 30, 2009 and December 31, 2009;

(iv) 4.25 to 1.0 during the Reference Period ending on each of March 31, 2010 and June 30, 2010;

(v) 4.00 to 1.0 during the Reference Period ending on September 30, 2010;

(vi) 3.75 to 1.0 during the Reference Period ending on each of December 31, 2010 and March 31, 2011; and

(vii) 3.75 to 1.0 during the Reference Period ending on the Termination Date."

2.14 Paragraph (j) of Section 8.02 ("Liens") shall be deleted and replaced in its entirety with the following language:

"(j) any Liens in respect of any Qualified Receivables Transactions;"

2.15 Paragraph (c) of Section 8.03 ("Consolidations and Mergers") shall be deleted and replaced in its entirety with the following language:

"(c) immediately after giving effect to such transaction, including for purposes of this clause (c) the substitution of any Successor to the Borrower for the Borrower or the substitution of any Successor to a Guarantor for such Guarantor and treating any Debt or Lien incurred by the Borrower or any Successor to the Borrower, or by a Guarantor of the Borrower or any Successor to such Guarantor, as a result of such transactions as having been incurred at the time of such transaction (and Incurred for the purposes of Section 8.07), no Default or Event of Default shall have occurred and be continuing; and"

2.16 Section 8.04 ("Sales of Assets, Etc.") shall be deleted and replaced in its entirety with the following language:

"8.04 Sales of Assets, Etc. The Borrower will not, and will not permit any of its Material Subsidiaries to, sell, lease or otherwise dispose of any of its assets (including the Capital Stock of any Subsidiary), other than (a) inventory, trade receivables and assets surplus to the needs of the business of the Borrower or any Subsidiary sold in the ordinary course of business, (b) assets not used, usable or held for use in connection with cement operations and related operations, and (c) any "margin stock" within the meaning of Regulation U acquired by the Borrower with the proceeds of the Loans through a Tender Offer, unless the proceeds of the sale of such assets are retained by the Borrower or such Subsidiary, as the case may be, and, as promptly as practicable after such sale (but in any event within one hundred and eighty (180) days of such sale), the proceeds are applied to (i) expenditures for property, plant and equipment usable in the cement industry or related industries; (ii) the repayment of senior Debt of the Borrower or any of its Subsidiaries, whether secured or unsecured; or (iii) investments in companies engaged in the cement

industry or related industries; provided, however, that the net proceeds from Qualified Receivables Transactions to the extent exceeding, in the aggregate, the aggregate U.S.$ amount set forth in Schedule 8.04 attached hereto shall be applied to the repayment of senior Debt of the Borrower or any of its Subsidiaries, whether secured or unsecured; and provided, that, nothing in this Section 8.04 shall prevent any sale, lease or other disposal of assets from any Subsidiary to another Subsidiary."

2.17 A new Section 8.07 ("Limitation on Indebtedness") shall be added to the Credit Agreement to read as follows:

"8.07 Limitation on Indebtedness. The Borrower shall not, and shall not permit any of its Subsidiaries to, Incur any Debt (including Acquired Debt), provided, that, the Borrower or any Subsidiary may Incur Debt if on the date of such Incurrence and after giving effect thereto on a *pro forma* basis (as if such Debt had been Incurred on the first day of the relevant Reference Period): (a) the Consolidated Net Debt / EBITDA Ratio is less than 3.5 to 1.0 and (b) no Event of Default has occurred and is continuing or would result from the Incurrence of such Debt. Notwithstanding the foregoing, the Borrower and its Subsidiaries may Incur Permitted Debt.

(a) Upon each Incurrence of Debt, the Borrower or Subsidiary, as the case may be, may designate (and later re-designate) in its sole discretion pursuant to which category of Permitted Debt any Debt is being Incurred and may subdivide an amount of Debt and designate (and later redesignate) more than one such category pursuant to which such amount of Debt is being Incurred and such Permitted Debt shall not be deemed to have been Incurred or outstanding under any other category of Permitted Debt. For the avoidance of doubt, the inability of the Borrower or its Subsidiary to Incur Debt under one category shall not limit the ability of the Borrower or its Subsidiary to Incur Debt under another category.

(b) Accrual of interest shall not be deemed to be an Incurrence of Debt for purposes of this Section 8.07. Notwithstanding any other provision of this covenant, the maximum amount of Debt that the Borrower and its Subsidiaries may Incur pursuant to this covenant shall not be deemed to be exceeded, with respect to any outstanding Debt, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Debt Incurred to refinance other Debt, if Incurred in a different currency from the Debt being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Debt is denominated that is in effect on the date of such refinancing.

(c) For purposes of determining compliance with any U.S. Dollar-denominated restriction on the Incurrence of Debt, the U.S. Dollar equivalent principal amount of Debt denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Debt was Incurred."

2.18 Paragraph (e) ("Defaults under Other Agreements") of Section 10.01 ("Events of Default") shall be deleted and replaced in its entirety with the following language:

"(e) Defaults under Other Agreements. The occurrence of a default or event of default under any indenture, agreement or instrument relating to any Material Debt of the Borrower or any of its Subsidiaries, and such default or event of default results in the acceleration of the maturity of any principal amount of such Material Debt prior to the date on which it would otherwise become due and payable; or any principal amount of Material Debt of the Borrower or any of its Subsidiaries shall not be paid upon the scheduled maturity thereof (after giving effect to any applicable grace period); or"

2.19 A new Section 10.05 ("Remedies Independent") shall be added to the Credit Agreement to read as follows:

"10.05 Remedies Independent. Any debt owing to a Lender under the Transaction Documents shall be a separate and independent debt. Except as otherwise stated in the Transaction Documents, (i) any right of a Lender under the Transaction Documents shall be a separate and independent right and (ii) a Lender may separately enforce its rights under the Transaction Documents."

2.20 Paragraph (b) of Section 13.02 ("Amendments and Waivers") shall be amended by the insertion of the word "or" after the semicolon at the end of subsection (iv) thereof and the addition of a new subsection (v) at the end thereof, to read as follows:

"(v) amend, modify or waive any provision of Article IX or release any Guarantor from its obligations hereunder;"

2.21 Paragraph (a) of Section 13.11 ("Submission to Jurisdiction") shall be amended to include the following sentence at the end thereof:

"Each of the parties hereto also submits to the jurisdiction of the competent courts of its corporate domicile in respect of actions initiated against it as a defendant."

2.22 Paragraph (b) of Section 13.11 ("Submission to Jurisdiction") shall be deleted and replaced in its entirety with the following language:

"(b) Each of the parties hereto hereby irrevocably waives, to the fullest extent it may effectively do so, the jurisdiction of any court other than those identified in paragraph (a) above and any objection that it may now or hereafter have to the laying of venue of any such suit, action or proceeding in any such federal or New York State court and irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of any such suit, action or proceeding."

2.23 Paragraph (a) of Section 13.12 ("Appointment of Agent for Service of Process") shall be amended by the insertion of the following sentence after the first sentence thereof:

"The Borrower and each Guarantor hereby appoints as its conventional domicile exclusively to receive any of the notices and service of process, the domicile of the Process Agent mentioned above or any other domicile notified in writing by the Process Agent to the Borrower, the Administrative Agent or any Lender."

3. Representations and Warranties. The Borrower and each of the Credit Parties hereby represent and warrant to the Administrative Agent and the Lenders that:

3.1 The representations and warranties of the Borrower contained in the Credit Agreement are true and correct as of the date of this Amendment No. 4; provided, however, that (i) in Section 5.06 ("Litigation"), the reference to Schedule 5.06 is replaced by Schedule 5.06 attached hereto and (ii) with respect to Section 5.11 ("Ownership of Property"), the representations and warranties are true and correct, other than as is set forth in the Risk Factors in the Borrower's Form 20-F for the year ended December 31, 2007 filed with the SEC and updated in the Borrower's Form 6-K filed on August 19, 2008 with the SEC, in each case with respect to CEMEX Venezuela S.A.C.A.

3.2 The representations and warranties of the Guarantors contained in the Credit Agreement are true and correct as of the date of this Amendment No. 4; provided, however, in Section 6.05 ("Litigation"), the reference to Schedule 6.05 is replaced by Schedule 5.06 attached hereto.

3.3 The execution, delivery and performance by the Borrower and each of the other Credit Parties of this Amendment No. 4 has been duly authorized by all necessary corporate action, and this Amendment No. 4 constitutes the legal, valid and binding obligation of the Borrower and each of the Credit Parties enforceable against the Borrower and each of the Credit Parties in accordance with its terms, except as enforceability may be limited by applicable *concurso mercantil*, bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally or general equity principles.

3.4 The execution, delivery and performance of this Amendment No. 4 does not, and will not, contravene or conflict with any provision of (i) any Requirement of Law, (ii) any judgment, decree or order, or (iii) the certificate or articles of incorporation or by-laws or other constituent documents of the Borrower and the Credit Parties, and does not, and will not, contravene or conflict with, or cause any Lien to arise under, any provision of any Contractual Obligation applicable to the Borrower and the Credit Parties.

3.5 No Default or Event of Default exists under the Credit Agreement or any other Transaction Document or will exist after or be triggered by the execution, delivery and performance of this Amendment No. 4. In addition, the Borrower and the Credit Parties hereby represent, warrant and reaffirm that the Credit Agreement, the Notes and each of the other Transaction Documents remain in full force and effect.

4. Facility Fee. The Borrower hereby agrees to pay to the Administrative Agent for the benefit of each Lender that is a signatory to this Amendment No. 4 (each a "Consenting Lender") a facility fee, which shall accrue and be payable in arrears for each Facility Fee Period, in an amount equal to the percentage per annum determined in accordance with the table below (the " Facility Fee"), and applied to a Consenting Lender's Average Drawn Commitments for such Facility Fee Period and will accrue on, and be calculated based on, the number of days elapsed in such Facility Fee Period. The Facility Fee for each Facility Fee Period will be as set forth below determined in accordance with the Consolidated Net Debt / EBITDA Ratio calculated based on the financial statements delivered, or required to be delivered, on the applicable Calculation Date:

Consolidated Net Debt / EBITDA Ratio	**Facility Fee**
Greater than 4.50 to 1	2.00%
Less than or equal to 4.50 to 1, but greater than 4.00 to 1	1.25%
Less than or equal to 4.00 to 1, but greater than 3.75 to 1	0.75%
Less than or equal to 3.75 to 1, but greater than 3.50 to 1	0.5%
Less than or equal to 3.50 to 1	0%

The Facility Fee shall be payable within five Business Days after the Calculation Date applicable to each relevant Facility Fee Period; provided that, in respect of any Facility Fee Period ending on an Early Repayment Event, the Facility Fee shall be payable on the date of such Early Repayment Event. Notwithstanding the above, no Facility Fee shall be payable in respect of any Facility Fee Period in which an acceleration of any Loan occurs or in respect of any fiscal quarter thereafter.

For purposes of this Section 4, the following definitions shall apply:

"Average Drawn Commitments" means, for any Facility Fee Period, the Consenting Lender's ratable share of the Average Outstanding Loans under the Credit Agreement as of the end of each day during such Facility Fee Period, divided by the number of days in such Facility Fee Period.

"Calculation Date" means with respect to each Facility Fee Period, the earlier of the date on which the Borrower delivers, or is required to deliver, its financial statements with respect to the fiscal quarter ending on the last day of such Facility Fee Period in accordance with Sections 7.01(a) and 7.01(b) of the Credit Agreement; provided, however, that if an Early Repayment Event occurs the Calculation Date for the Facility Fee Period ending on such Early Repayment Event shall be the date on which the financial statements for the most recently completed fiscal quarter for which financial statements are required to have been delivered pursuant Sections 7.01(a) and 7.01(b) of the Credit Agreement have been delivered or were required to be delivered.

"Facility Fee Period" means each fiscal quarter; provided, however,

(1) the first Facility Fee Period shall commence on, and include, the Amendment No. 4 Effective Date and end on, and include, December 31, 2008;

(2) that in respect of any Facility Fee Period in which the Loans are repaid or prepaid in full (" Early Repayment Event"), such Facility Fee Period shall be deemed to end on the date of such Early Repayment Event; and

(3) if the Borrower requests any Borrowings after an Early Repayment Event, the Facility Fee Period will commence on the date of such Borrowing and end on the last day of the fiscal quarter in which such Borrowing occurred.

5. Conditions Precedent to Effectiveness. The effectiveness of the amendments set forth in Section 2 hereof are in each instance subject to the satisfaction of each of the following conditions precedent (the date on which all such conditions precedent are satisfied or waived being the " Amendment No. 4 Effective Date"):

5.1 Amendment No. 4. This Amendment No. 4 shall have been duly authorized, executed and delivered by each of the Borrower, the Guarantors and the Required Lenders, and acknowledged by the Administrative Agent (which shall be a purely ministerial action).

5.2 No Default. No Default or Event of Default shall have occurred and be continuing, or would result from the execution or effectiveness of this Amendment No. 4.

5.3 Opinions. The Administrative Agent and the Lenders shall have received opinions from (i) the Borrower's General Counsel and (ii) Skadden, Arps, Slate, Meagher & Flom LLP, with respect to the enforceability of this Amendment No. 4 and no conflict with New York law and material agreements governed by New York law, and in form and substance acceptable to the Administrative Agent.

5.4 No Material Adverse Effect. No Material Adverse Effect has occurred since December 31, 2007 (excluding the financial condition and events previously disclosed in (i) the Borrower's filings made with the SEC or the *Bolsa Mexicana de Valores, S.A.B de C.V.* after December 31, 2007; or (ii) in the Borrower's unaudited financial statements for each of the first three fiscal periods of 2008).

5.5 Solvency. The Borrower and each Guarantor is, and after giving effect to each of the transactions contemplated by this Amendment No. 4 and the Transaction Documents will be, Solvent.

5.6 Miscellaneous. The Administrative Agent and the Lenders shall have received such other agreements, instruments and documents as the Administrative Agent or the Lenders may reasonably request.

5.7 Other Facilities. Section 2.13 of this Amendment shall not be effective until the debt obligations set forth on Exhibit A attached hereto have been amended in form and substance reasonably satisfactory to the Lenders and the Borrower shall have notified the Administrative Agent of such modification in writing.

6. Reference to and Effect Upon the Credit Agreement and other Transaction Documents .

6.1 Full Force and Effect. Except as specifically provided herein, the Credit Agreement, the Notes and each other Transaction Document shall remain in full force and effect and each Note, Transaction Document, and the Credit Agreement is hereby ratified and confirmed by the Borrower.

6.2 No Waiver. The execution, delivery and effect of this Amendment No. 4 shall be limited precisely as written and shall not be deemed to (i) be a consent to any waiver of any term or condition, or to any amendment or modification of any term or condition (except as specifically provided herein) of the Credit Agreement, the Notes or any other Transaction Document, (ii) prejudice any right, power or remedy which the Administrative Agent or any Lender now has or may have in the future under or in connection with the Credit Agreement or any other Transaction Document or (iii) constitute a novation of any of the obligations under the Credit Agreement, the Notes, and the other Transaction Documents.

6.3 Certain Terms. Each reference in the Credit Agreement to "this Agreement", "hereunder", "hereof", "herein" or any other word or words of similar import shall mean and be a reference to the Credit Agreement as amended hereby, and each reference in any other Transaction Document to the Credit Agreement or any word or words of similar import shall be and mean a reference to the Credit Agreement as amended hereby.

7. Counterparts. This Amendment No. 4 may be executed in any number of counterparts, each of which when so executed shall be deemed an original but all such counterparts shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment No. 4 by telecopier shall be as effective as delivery of a manually executed counterpart signature page to this Amendment No. 4.

8. Costs and Expenses. As provided in the Credit Agreement, the Borrower shall pay the reasonable fees, costs and expenses incurred by the Administrative Agent in connection with the preparation, execution and delivery of this Amendment No. 4 (including, without limitation, attorneys' fees).

9. GOVERNING LAW. THIS AMENDMENT NO. 4 SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK.

10. Headings. Section headings in this Amendment No. 4 are included herein for convenience of reference only and shall not constitute a part of this Amendment No. 4 for any other purpose.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

CEMEX, S.A.B. de C.V.,
as Borrower

By /s/ Augustin Blanco
Name: Augustin Blanco
Title: Attorney-in-fact

[Signature Page Amendment No. 4 to $1.2bn Facility – Cemex S.A.B. de C.V.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

CEMEX MÉXICO, S.A. de C.V.,
as a Guarantor

By /s/ Augustin Blaco
Name: Augustin Blanco
Title: Attorney-in-fact

[Signature Page Amendment No. 4 to $1.2bn Facility – Cemex México, S.A. de C.V.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

EMPRESAS TOLTECA de MÉXICO, S.A.
de C.V.,
as a Guarantor

By /s/ Augustin Blanco
Name: Augustin Blanco
Title: Attorney-in-fact

[Signature Page Amendment No. 4 to $1.2bn Facility – Empresas Tolteca de México, S.A. de C.V]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

BARCLAYS BANK PLC,
as Administrative Agent and as Lender

By /s/ Nicholas A. Bell
Name: Nicholas A. Bell
Title: Director

[Signature Page Amendment No. 4 to $1.2bn Facility – Barclays Bank PLC]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

CITIBANK, N.A., NASSAU, BAHAMAS BRANCH,
as Lender

By /s/ Leslie Munroe
Name: Leslie Munroe
Title: Attorney-In-Fact

[Signature Page Amendment No. 4 to $1.2bn Facility – Citibank, N.A., Nassau, Bahamas Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

BANCO SANTANDER, S.A., NEW YORK BRANCH,
as a Lender

By /s/ Harry Moreno
Name: Harry Moreno
Title: Vice President

By /s/ Jesus Lopez
Name: Jesus Lopez
Title: Vice President

[Signature Page Amendment No. 4 to $1.2bn Facility – Banco Santander, S.A., New York Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

THE BANK OF NOVA SCOTIA,
as a Lender

By /s/ Marian Lawson
Name: Marian Lawson
Title: Managing Director, Co-Head Corporate Banking

[Signature Page Amendment No. 4 to $1.2bn Facility – The Bank of Nova Scotia]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

BANCO BILBAO VIZCAYA
ARGENTARIA, S.A., GRAND CAYMAN BRANCH,
as a Lender

By /s/ Rodolfo Hare
Name: Rodolfo Hare
Title: Vice President Global Corporate Banking

By /s/ Cristian Aguirre
Name: Cristian Aguirre
Title: Assistant Vice President International Corporate Banking

[Signature Page Amendment No. 4 to $1.2bn Facility – BBVA, S.A., Grand Cayman Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

BNP PARIBAS PANAMA BRANCH,
as a Lender

By /s/ Nair Gonzales
Name: Nair Gonzales
Title: Senior Vice-President

By /s/ Alain Ligault
Name: Alain Ligault
Title: Senior Credit Officer

[Signature Page Amendment No. 4 to $1.2bn Facility – BNP Paribas Panama Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

CALYON NEW YORK BRANCH,
as a Lender

By /s/ [illegible]
Name: [illegible]
Title: Managing Director

By /s/ David Rigaud
Name: David Rigaud
Title: Managing Director

[Signature Page Amendment No. 4 to $1.2bn Facility – Calyon New York Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

ING BANK N.V. (ACTING THROUGH ITS CURACAO BRANCH),
as a Lender

By /s/ Remco Gaanderse
Name: Remco Gaanderse
Title: Country Manager

By /s/ [illegible]
Name: [illegible]
Title: Chief Financial Officer

[Signature Page Amendment No. 4 to $1.2bn Facility – ING Bank N.V., Acting through its Curacao Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

WACHOVIA BANK, NATIONAL ASSOCIATION,
as a Lender

By /s/ [illegible]
Name: [illegible]
Title: Managing Director

[Signature Page Amendment No. 4 to $1.2bn Facility – Wachovia Bank, National Association]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

BAYERISCHE LANDESBANK, NEW YORK BRANCH,
as a Lender

By /s/ Gina Hoey
Name: Gina Hoey
Title: Vice President

By /s/ Nikolai von Mengden
Name: Nikolia von Mengden
Title: Senior Vice President

[Signature Page Amendment No. 4 to $1.2bn Facility – Bayerische Landesbank, New York Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

FORTIS CAPITAL CORP.,
as a Lender

By /s/ Carlos Marmol
Name: Carlos Marmol
Title: Head of International Desk N.A.

By /s/ Steven Silverstein
Name: Steven Silverstein
Title: Director

[Signature Page Amendment No. 4 to $1.2bn Facility – Fortis Capital Corp.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

HSBC BANK PLC SURCURSAL EN ESPAÑA,
as a Lender

By /s/ Mark Hall
Name: Mark Hall
Title: Managing Director

By _____
Name:
Title:

[Signature Page Amendment No. 4 to $1.2bn Facility – HSBC Bank PLC Surcursal en España]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

THE ROYAL BANK OF SCOTLAND PLC,
as a Lender

By /s/ Guillermo Poggio
Name: Guillermo Poggio
Title:

By /s/ [illegible]
Name: [illegible]
Title:

[Signature Page Amendment No. 4 to $1.2bn Facility – The Royal Bank of Scotland PLC]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

SOCIÉTÉ GÈNÉRALE,
as a Lender

By /s/ Ambrish Thanawala
Name: Ambrish Thanawala
Title: Managing Director

[Signature Page Amendment No. 4 to $1.2bn Facility – Société Gènérale]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

BANK OF AMERICA, N.A.,
as a Lender

By /s/ Emilio Arriaga B
Name: Emilio Arriaga B
Title: Vice President

[Signature Page Amendment No. 4 to $1.2bn Facility – Bank of America, N.A.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.,
as a Lender

By /s/ Makoto Kinoshita
Name: Makoto Kinoshita
Title: VP & Manager

[Signature Page Amendment No. 4 to $1.2bn Facility – The Bank of Tokyo-Mitsubishi UFJ, Ltd.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

JPMORGAN CHASE BANK, N.A.,
as a Lender

By /s/ Pablo Ogarrio
Name: Pablo Ogarrio
Title: Vice President

[Signature Page Amendment No. 4 to $1.2bn Facility – JPMorgan Chase Bank, N.A.]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

INTESA SANPAOLO S.p.A., NEW YORK BRANCH,
as a Lender

By /s/ Barbara J. Bassi
Name: Barbara J. Bassi
Title: Vice President

By /s/ D. Mara Lowenstein
Name: D. Mara Lowenstein, Esq.
Title: General Counsel & Vice President

[Signature Page Amendment No. 4 to $1.2bn Facility – Intesa Sanpaolo S.p.A., New York Branch]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

CAJA DE AHORROS Y MONTE DE
PIEDAD DE MADRID MIAMI AGENCY,
as a Lender

By /s/ Manuel Nunez
Name: Manuel Nunez
Title: General Manager

By /s/ Pablo Hernandez
Name: Pablo Hernandez
Title: Head of Capital Markets & IFIs

[Signature Page Amendment No. 4 to $1.2bn Facility – Caja de Madrid Miami Agency]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

COMERICA BANK,
as a Lender

By /s/ [illegible]
Name: [illegible]
Title: Vice President

[Signature Page Amendment No. 4 to $1.2bn Facility – Comerica Bank]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

MORGAN STANLEY BANK,
as a Lender

By /s/ Melissa James
Name: Melissa James
Title: Authorized Signatory

[Signature Page Amendment No. 4 to $1.2bn Facility – Morgan Stanley Bank]

IN WITNESS WHEREOF, this Amendment No. 4 has been duly executed as of the date first written above.

BANCA MONTE DEI PASCHI DI SIENA S.P.A., as a Lender

By /s/ Renato Bassi
Name: Renato Bassi
Title: Senior Vice President & General Manager

[Signature Page Amendment No. 4 to $1.2bn Facility – Banca Monte Dei Paschi di Siena, S.P.A.]

EXHIBIT A

Other Facilities

(1) Credit Agreement, dated as of June 6, 2005, by and among CEMEX, as borrower, CEMEX México and Empresas Tolteca, as guarantors, Barclays Bank PLC, New York Branch, as issuing bank and documentation agent, ING Bank N.V., as issuing bank, the several lenders party thereto, and Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint bookrunner, Citigroup Global Markets Inc., as joint bookrunner and syndication agent, and ING Capital LLC, as joint bookrunner and administrative agent, for an aggregate principal amount of U.S.$700,000,000, as amended by Amendment No. 1 thereto, dated as of June 21, 2006, the Amendment and Waiver Agreement, dated as of December 1, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of the date hereof.

(2) Amended and Restated Facilities Agreement, dated as of the date hereof, for New Sunward Holding B.V. as borrower, CEMEX, CEMEX Mexico and Empresas Tolteca as guarantors and Citibank, N.A. as agent, for an aggregate principal amount of U.S.$700,000,000.

(3) Senior Unsecured Dutch Loan "A" Agreement, dated as of June 2, 2008, by and among NSH, CEMEX, CEMEX México, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto for an aggregate principal amount of U.S. $525,000,000 as amended by First Amendment and Waiver to Senior Unsecured Dutch Loan "A" Agreement dated as of the date hereof.

(4) Senior Unsecured Dutch Loan "B" Agreement, dated as of June 2, 2008, by and among NSH, CEMEX, CEMEX México, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto for an aggregate principal amount of U.S. $525,000,000 as amended by First Amendment and Waiver to Senior Unsecured Dutch Loan "B" Agreement dated as of the date hereof.

(5) Amendment and Restatement Agreement relating to a U.S.$2,300,000,000 revolving facilities agreement, dated as of September 24, 2004 (as amended and restated from time to time) and made between, among others, CEMEX España, S.A., as borrower and guarantor, Citigroup Global Markets Limited, Banco Bilbao Vizcaya Argentaria, S.A., Banco Santander Central Hispano, S.A. and Calyon Corporate and Investment Bank as arrangers and joint bookrunners, and Citibank International plc acting as agent.

(6) Waiver letter relating to a EUR250,000,000 and JBY19,308,000,000 term and revolving facilities agreement dated as of March 30, 2004 (as amended and restated from time to time) and made between, among others, CEMEX España, S.A., as borrower, Banco Bilbao Vizcaya Argentaria, S.A. and Société Générale, S.A. as arrangers, and Banco Bilbao Vizcaya Argentaria, S.A. as agent.

SCHEDULE 5.06

Litigation

A description of material actions, suits, investigations, litigations or proceedings, including Environmental Actions, affecting Borrower or any of its Subsidiaries before any court, Governmental Authority or arbitrator is provided below.

Environmental Matters

United States

As of November 30, 2008, CEMEX, Inc. and its subsidiaries had accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately U.S.$42.6 million. The environmental matters relate to (i) the disposal of various materials, in accordance with past industry practice, which might be categorized as hazardous substances or wastes, and (ii) the cleanup of sites used or operated by CEMEX, Inc., including discontinued operations, regarding the disposal of hazardous substances or wastes, either individually or jointly with other parties. Most of the proceedings are in the preliminary stage, and a final resolution might take several years. For purposes of recording the provision, CEMEX, Inc. considers that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. Based on information available to date, CEMEX, Inc. does not believe it will be required to spend significant sums on these matters, in excess of the amounts previously recorded. The ultimate cost that might be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work, and negotiations with or litigation against potential sources of recovery have been completed.

CEMEX Construction Materials Florida, LLC f/k/a Rinker Materials of Florida, Inc., a subsidiary of CEMEX, Inc., holds one federal quarry permit and is the beneficiary of one of 10 other federal quarrying permits granted for the Lake Belt area in South Florida. The permit held by CEMEX Florida covers CEMEX Florida's SCL and FEC quarries. CEMEX Florida's Krome quarry is operated under one of the other federal quarry permits. The FEC quarry is the largest of CEMEX Floridas' quarries measured by volume of aggregates mined and sold. CEMEX Florida's Miami cement mill is located at the SCL quarry and is supplied by that quarry. A ruling was issued on March 22, 2006 by a judge of the U.S. District Court for the Southern District of Florida in connection with litigation brought by environmental groups concerning the manner in which the permits were granted. Although not named as a defendant, CEMEX Florida has intervened in the proceedings to protect its interests. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the relevant governmental agencies in connection with the issuance of the permits. The judge remanded the permits to the relevant governmental agencies for further review, which review the governmental agencies have indicated in a recent announcement should take until mid February 2009 to conclude. The judge also conducted further proceedings to determine the activities to be conducted during the remand

period. In July 2007, the judge issued a ruling that halted certain quarrying operations at three non-CEMEX Florida quarries. The judge left in place CEMEX Florida's Lake Belt permits until the relevant government agencies complete their review. In a May 2008 ruling, the federal appellate court determined that the district court judge did not apply the proper standard of review to the permit issuance decision of the governmental agency, vacated the district court's prior order, and remanded the proceeding to the district court to apply the proper standard of review; this review remains pending before the district court judge. If the Lake Belt permits are ultimately set aside or quarrying operations under them restricted, CEMEX Florida will need to source aggregates, to the extent available, from other locations in Florida or import aggregates. This would likely affect profits from our Florida operations. Any adverse impacts on the Florida economy arising from the cessation or significant restriction of quarrying operations in the Lake Belt could also have a material adverse effect on our financial results.

Europe

In Great Britain, future expenditure on closed and current landfill sites has been assessed and quantified over the period in which the sites are considered to have the potential to cause environmental harm, generally consistent with the regulator view of up to 60 years from the date of closure. The assessed expenditure relates to the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure. The costs have been quantified on a net present value basis in the amount of approximately £122 million, and an accounting provision for this sum has been made at December 31, 2007.

In 2003, the European Union adopted a directive implementing the Kyoto Protocol on climate change and establishing a greenhouse gas emissions allowance trading scheme within the European Union. The directive requires Member States to impose binding caps on carbon dioxide emissions from installations involved in energy activities, the production and processing of ferrous metals, the mineral industry (including cement production) and the pulp, paper or board production business. Under this scheme, companies with operations in these sectors receive from the relevant Member States allowances that set limitations on the levels of greenhouse gas emissions from their installations. These allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that are not reaching their emissions objectives. Companies can also use credits issued from the use of the flexibility mechanisms under the Kyoto protocol to fulfill their European obligations. These flexibility mechanisms provide that credits (equivalent to allowances) can be obtained by companies for projects that reduce greenhouse gas emissions in emerging markets. These projects are referred to as Clean Development Mechanism ("CDM") or joint implementation projects depending on the countries where they take place. Failure to meet the emissions caps is subject to heavy penalties.

Companies can also use, up to a certain level, credits issued under the flexible mechanisms of the Kyoto protocol to fulfill their European obligations. Credits for Emission Reduction projects obtained under these mechanisms are recognized, up to a certain level, under the European emission trading scheme as allowances. To obtain these emission reduction credits, companies must comply with very specific and restrictive requirements from the United Nations Convention on Climate Change (UNFCC).

As required by directive, each of the Member States established a National Allocations Plan, or NAP, setting out the allowance allocations for each industrial facility for Phase I, from 2005 to 2007. Based on the NAPs established by the Member States of the European Union for the 2005 to 2007 period and our actual production, on a consolidated basis after trading allowances between our operations in countries with a deficit of allowances and our operations in countries with an excess of allowances, and after some external operations, Borrower's Subsidiaries had a surplus of allowances of approximately 1,050,054 tons of carbon dioxide in this Phase I.

For Phase II, comprising 2008 through 2012, however, there has been a reduction in the allowances granted by the Member States that have already approved their NAP, which may result in a consolidated deficit in our carbon dioxide allowances during the period. We believe we may be able to reduce the impact of any deficit by either reducing carbon dioxide emissions in our facilities or by obtaining additional emission credits through the implementation of CDM projects. If we are not successful in implementing emission reductions in our facilities or obtaining credits from CDM projects, we may have to purchase a significant amount of emission credits in the market, because CEMEX has already sold a substantial amount of allowances for Phase II, the cost of which may have an impact on our operating results. As of December 1, 2008, the market value of carbon dioxide allowances for Phase II was approximately 15.45 € per ton. CEMEX is taking all the measures to minimize our exposure to this market while assuring the supply of our products to our clients.

The Spanish NAP has been finally approved by the Spanish Government, reflecting the conditions that were set forth by the European Commission. The allocations made to our installations allow us to foresee certain availability of allowances, nevertheless, there remains the uncertainty regarding the allocations that, against the reserve for new entrants, shall be requested for the new CEMEX cement plant in Andorra (Teruel), currently under construction, and that it is scheduled to start operating in 2010.

On May 29, 2007, the Polish government filed an appeal before the Court of First Instance in Luxemburg regarding the European Commission's rejection of the initial version of the Polish NAP. The Court has denied Poland's request for a quick path verdict in the case, keeping the case in the regular proceeding path, therefore, the Polish government has started to prepare Polish internal rules on division of allowance at the level already accepted by the European Commission. Seven major Polish cement producers, representing 98% of Polish cement production (including CEMEX Polska), have also filed seven separate appeals before the Court of First Instance regarding the European Commission's rejection. On September 29, 2008 the Court of the First Instance issued an order rejecting CEMEX Polska's appeal without going into the merit of the case. As of December 4, 2008 the final version of the Polish NAP has not been cleared by the Commission; CEMEX's has not determined the impact this may have on CEMEX¨s position in the country.

Tax Matters

Pursuant to amendments to the Mexican income tax law (*Ley del Impuesto sobre la Renta*), which became effective on January 1, 2005, Mexican companies with direct or indirect

investments in entities incorporated in foreign countries whose income tax liability in those countries is less than 75% of the income tax that would be payable in Mexico will be required to pay taxes in Mexico on passive income such as dividends, royalties, interest, capital gains and rental fees obtained by such foreign entities, provided that the income is not derived from entrepreneurial activities in such countries (income derived from entrepreneurial activities is not subject to tax under these amendments). We filed two motions in the Mexican federal courts challenging the constitutionality of the amendments. On June 29, 2006, we obtained a favorable ruling from the Mexican federal court stating that the amendments were unconstitutional. The Mexican tax authority appealed the ruling, and the proceeding was attracted by the Mexican Supreme Court of Justice. On September 9, 2008, the Mexican Supreme Court ruled against CEMEX's constitutional challenge of the controlled foreign corporation tax rules in effect in Mexico for tax years 2005 to 2007. Since the Supreme Court's decision does not pertain to an amount of taxes due or other tax obligations, CEMEX will self-assess any taxes due through the submission of amended tax returns. CEMEX has not yet determined the amount of tax or the periods affected. Based on a preliminary estimate, CEMEX believes this amount will not be material, but no assurance can be given that additional analysis will not lead to a different conclusion. If the tax authorities do not agree with CEMEX's self-assessment of the taxes due for past periods, they may assess additional amounts of taxes past due, which may be material and may impact CEMEX cash flows.

The Mexican Congress approved several amendments to the Mexican Asset Tax Law (Ley del Impuesto al Activo) that came into effect on January 1, 2007. As a result of such amendments, all Mexican corporations, including us, are no longer allowed to deduct their liabilities from the calculation of the asset tax. We believe that the Asset Tax Law, as amended, is against the Mexican constitution. We have challenged the Asset Tax Law through appropriate judicial action (juicio de amparo).

The asset tax was imposed at a rate of 1.25% on the value of most of the assets of a Mexican corporation. The asset tax was "complementary" to the corporate income tax (*impuesto sobre la renta*) and, therefore, was payable only to the extent it exceeded payable income tax.

Philippines

As of November 30, 2008, the Philippine Bureau of Internal Revenue (BIR), had assessed APO, Solid, IQAC, ALQC and CSPI, our operating subsidiaries in the Philippines, for deficiency taxes covering taxable years 1998-2005 amounting to a total of approximately 1,994 million Philippine Pesos (approximately U.S.$40.727 million as of November 30, 2008, based on an exchange rate of Philippine Pesos 48.96 to U.S.$1.00, which was the Philippine Peso/Dollar exchange rate on November 30, 2008 as published by the Bangko Sentral ng Pilipinas, the central bank of the Republic of the Philippines).

The majority of the tax assessments result primarily from the disallowance of APO's income tax holiday incentives for taxable years 1999 to 2001 (approximately Philippine Pesos 1,078 million or U.S.$22.1 million as of November 30, 2008, based on an exchange rate of Philippine Pesos 48.96 to U.S.$1.00). We have contested the BIR's assessment, arising from the disallowance of the ITH incentive, with the Court of Tax Appeals (CTA). The initial Division

ruling of the CTA was unfavorable, but is subject to further appeal with the CTA as a whole. The assessment is now currently on appeal with the CTA En Banc. A motion was filed with the CTA, requesting the court to hold APO totally not liable for alleged income tax liabilities for all the years covered and to this end cancel and withdraw APO's deficiency income tax assessments for taxable years 1999, 2000 and 2001 on the basis of APO's availment of the tax amnesty described below. As of November 30, 2008, resolution on the aforementioned motion is still pending.

CEMEX Venezuelan Nationalization

In furtherance of Venezuela's announced policy to nationalize certain sectors of the economy, on June 18, 2008, the Nationalization Decree was promulgated, mandating that the cement production industry in Venezuela be reserved for the Government of Venezuela and ordering the conversion of foreign-owned cement companies, including CEMEX Venezuela, into state-controlled companies with Venezuela holding an equity interest of at least 60%. The Nationalization Decree provided for the formation of a transition committee to be integrated with the board of directors of the relevant cement company to guaranty the transfer of control over all activities of the relevant cement company to Venezuela by December 31, 2008. The Nationalization Decree further established a deadline of August 17, 2008 for the shareholders of foreign-owned cement companies, including CEMEX Venezuela, to reach an agreement with the Government of Venezuela on the compensation for the nationalization of their assets. The Nationalization Decree also provided that this deadline may be extended by mutual agreement of the Government of Venezuela and the relevant shareholder. The transition committee, which was to be coordinated by the Ministry of Basic Industries (MIBAN), was never formally instituted and MIBAN never acted in the process, but instead Petroleos de Venezuela (PDVSA) conducted all the conversations.

CEMEX Venezuela and the Government did not reach agreement by the August 17 deadline, and on August 18 the Expropriation Decree was issued by the President of Venezuela, with PDVSA appointed to conduct the expropriation proceedings. Although these proceedings had not yet commenced, PDVSA officials headed a group of PDVSA workers, with the support of the public force, to take over all the facilities of CEMEX Venezuela on August 17. Since no agreement has been reached with the Venezuelan Government as to the compensation to be paid, the Dutch companies that control CEMEX Venezuela filed an arbitration request before the International Center for the Settlement of Investment Disputes against the Government of Venezuela, which request has been registered and the tribunal is in the process of being formed.

As of December 31, 2007, CEMEX Venezuela, S.A.C.A. was the holding entity of several of CEMEX's investments in the region, including CEMEX's operations in the Dominican Republic and Panama, as well as CEMEX's minority investment in Trinidad. In the wake of statements by the Government of Venezuela about the nationalization of assets in Venezuela, in April 2008, CEMEX concluded the transfer of all material non-Venezuelan investments to CEMEX España for approximately U.S.$355 million plus U.S.$112 million of net debt, having distributed all accrued profits from the non-Venezuelan investments to the stockholders of CEMEX Venezuela amounting to approximately U.S.$132 million. At this time, the net impact or the outcome of the nationalization on CEMEX's consolidated financial results cannot be reasonably estimated. As of June 30, 2008 the net assets of CEMEX's Venezuelan operations under Mexican FRS were approximately [U.S.$821.7]. Since August 2008, CEMEX no longer consolidates the financial results of CEMEX Venezuela.

On June 13, 2008, the Venezuelan securities authority initiated an administrative proceeding against CEMEX Venezuela, claiming that the company did not sufficiently inform its shareholders and the securities authority in connection with the transfer of the non-Venezuelan assets described above. The Venezuelan authority determined that CEMEX Venezuela did not comply with its disclosure obligations and imposed fines on the company, which we do not consider material, and requested the attorney general's office to review the case to determine if such non-disclosure also constituted criminal infringement.

Other Legal Proceedings

On August 5, 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia, claiming that it was liable along with the other members of the *Asociación Colombiana de Productores de Concreto*, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system of Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads in a manner which guarantees their service during the 20-year period for which they were originally designed, and estimate that the cost of such repair will be approximately U.S.$45 million. The lawsuit was filed within the context of a criminal investigation of two ASOCRETO officers and other individuals, alleging that the ready-mix concrete producers were liable for damages if the ASOCRETO officers were criminally responsible. The court completed the evidentiary stage, and on August 17, 2006 dismissed the charges against the members of ASOCRETO. The other defendants (one ex-director of the Distrital Institute of Development, the legal representative of the constructor and the legal representative of the contract auditor) were formally accused. The decision was appealed, and on December 11, 2006, the decision was reversed and the two ASOCRETO officers were formally accused as participants (determiners) in the execution of a state contract without fulfilling all legal requirements thereof. The first public hearing took place on November 20, 2007. In this hearing the judge dismissed an annulment petition filed by the ASOCRETO officers. The petition was based on the fact that the officers were formally accused of a different crime than the one they were being investigated for. This decision was appealed, but the decision was confirmed by the Superior Court of Bogota. On January 21, 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called El Tujuelo, as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required within a period of 10 days to deposit with the Court in cash CoP$337,800 million (approximately U.S.$195 million as of June 4, 2008, based on an exchange rate of CoP1730 to U.S.$1.00, which was the Colombian Peso/Dollar exchange rate on June 4, 2008, as published by the *Banco de la República de Colombia*, the central bank of Colombia), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed

CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. The measure does not affect the normal activity of the quarry. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.

On August 5, 2005, Cartel Damages Claims, SA, or CDC, filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG and other German cement companies. CDC is seeking €102 million in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002, which entities had assigned their claims to CDC. CDC is a Belgian company established by two lawyers in the aftermath of the German cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office with the express purpose of purchasing potential damages claims from cement consumers and pursuing those claims against the cartel participants. In January 2006, another entity assigned alleged claims to CDC, and the amount of damages being sought by CDC increased to €113.5 million plus interest. On February 21, 2007, the District Court of Düsseldorf decided to allow this lawsuit to proceed without going into the merits of this case by issuing an interlocutory judgment. All defendants appealed. The appeal hearing took place on April 22, 2008, and the appeal was dismissed on May 14, 2008. The lawsuit will proceed at the level of court of first instance. As of September 30, 2008 only one defendant has decided to file a complaint before the Federal High Court; this will delay the case from proceeding at the level of first instance to an extent we cannot assess today. In the meantime, CDC had acquired new assigners and announced an increase in the claim to €131 million. As of November 30, 2008, we had accrued liabilities regarding this matter for a total amount of approximately €20 million.

After an extended consultation period, in April 2006, the cities of Kaštela and Solin in Croatia published their respective Master (physical) Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to Dalmacijacement, our subsidiary in Croatia, by the Government of Croatia in September 2005. During the consultation period, Dalmacijacement submitted comments and suggestions to the Master Plans, but these were not taken into account or incorporated into the Master Plan by Kaštela and Solin. Most of these comments and suggestions were intended to protect and preserve the rights of Dalmacijacement´s mining concession granted by the Government of Croatia in September 2005. Immediately after publication of the Master Plans, Dalmacijacement filed a series of lawsuits and legal actions before the local and federal courts to protect its acquired rights under the mining concessions. The legal actions taken and filed by Dalmacijacement were as follows: (i) on May 17, 2006, a constitutional appeal before the constitutional court in Zagreb, seeking a declaration by the court concerning Dalmacijacement's constitutional claim for decrease and obstruction of rights earned by investment, and seeking prohibition of implementation of the Master Plans. This cases is currently under review by the court in Croatia, and it is expected that these proceedings will continue for several years before resolution; (ii) on May 17, 2006, a possessory action against the cities of Kaštela and Solin seeking the enactment of interim measures prohibiting implementation of the Master Plans and including a request to implead the Republic of Croatia into the proceeding on our side. The municipal court in Solin issued a first instance judgment dismissing our possessory action. We

filed an appeal against that judgment. The appeal has been resolved by the Solin County Court, affirming the judgment and rendering it final. The Municipal Court in Kaštela has issued a first instance judgment dismissing our possessory action. We filed an appeal against said judgment, which has since been resolved by the Kaštela Country Court, affirming the judgment and rendering it final; (iii) on May 17, 2006, an administrative proceeding before the State Lawyer, seeking a declaration from the Government of Croatia confirming that Dalmacijacement acquired rights under the mining concessions. Dalmacijacement received State Lawyer's opinion which confirms the Dalmacijacement's acquired rights according to the previous decisions ("old concession"). The Administrative Court in Croatia has ruled in favor of Dalmacijacement, validating the legality of the mining concession granted to Dalmacijacement by the Government of Croatia. This decision is final. Currently it is difficult for Dalmacijacement to ascertain the approximate economic impact of these measures by Kaštela and Solin).

Club of Environmental Protection, a Latvian environmental protection organization (hereinafter the "Applicant"), has initiated a court administrative proceeding against the decision made by the Environment State Bureau (hereinafter the "Defendant) in order to amend the environmental pollution permit (the "Permit") for the Broceni Cement Plant in Latvia, owned by CEMEX SIA (the "Disputed Decision"). CEMEX SIA was invited to participate in the court proceedings as a third party, whose rights and legal interest may be infringed by the relevant administrative act. On June 5, 2008 the Court rendered its judgment, where it satisfied the Claimant's claim and revoked the Disputed Decision stating that it is illegal because Defendant failed to perform public inquiry in accordance with legal regulations. The judgment has been appealed by both the Defendant and CEMEX SIA before the Court of Appeal and the court will hear the case in February 24, 2009. The appellate procedure will not suspend the operation of the Permit which will remain valid throughout the court proceedings, hence CEMEX SIA is allowed to continue to perform its activities. The Permit subject to this proceeding was issued for the existing cement line, which will be fully substituted in the first half of 2009 by a new cement line currently under construction.

SCHEDULE 8.04

Qualified Receivables Transactions

[EXCEL FILE TO BE POSTED ON DEBT DOMAIN]

Schedule 8.04

Qualified Receivables Transactions

	Description	Counterparty	Date	Currency	Amount in million	Amount in USD million	Maturity
CEMEX France Finance S.A.S	Amended and Restated Receivables Assignment Agreement (as amended)	ING Bank (France) S.A.	May 31, 2006	EURO	160,000,000	201,840,000	May 31, 2009
Cemex Inc.	Amended and Restated Receivables Purchase Agreement (as amended)	JP Morgan Chase Bank, N.A./ Lloyds TSB Bank plc	March 20, 2008	USD	500,000,000	500,000,000	March 20, 2009
Cemex Mexico, S.A. de C.V.	Agreement for the Sale and Transfer of Ownership of Designated Receivable	WLB Funding, S.A. de CM., SOFOM, E.N.R.	January 9, 2008	MXN	2,298,000,000	168,946,985	January 9, 2009
Cemex Espana, S.A.	Amended and Restated Receivables Purchase Agreement (as amended)	WestLB AG	May 9, 2006	EURO	300,000,000	378,450,000	May 9, 2011
TOTAL						**1,249,236,985**	

EXHIBIT 4.9.5

EXECUTION VERSION

FIFTH AMENDMENT TO CREDIT AGREEMENT

This Fifth Amendment to the Credit Agreement (as defined below), dated as of January 22, 2009 (this " Amendment No. 5"), is entered into by and among **CEMEX, S.A.B. de C.V.**, a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States (formerly known as "CEMEX, S.A. de C.V.") (the "Borrower"), **CEMEX MÉXICO, S.A. de C.V.**, a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States, **EMPRESAS TOLTECA DE MÉXICO, S.A. de C.V.**, a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States (each a " Guarantor" and together, the "Guarantors"), the several Lenders party thereto, **BARCLAYS BANK PLC, NEW YORK BRANCH**, as administrative agent (in such capacity, the "Administrative Agent").

RECITALS

A. The Borrower, the Guarantors, the Administrative Agent, the several Lenders party thereto, Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as Joint Lead Arranger and Joint Bookrunner, and Citigroup Global Markets Inc., as Documentation Agent, Joint Lead Arranger and Joint Bookrunner, are parties to that certain senior secured credit facility, dated as of May 31, 2005 in the amount of U.S.$1,200,000,000, as amended by Amendment No. 1, dated as of June 19, 2006, the Amendment and Waiver No. 2, dated as of November 30, 2006, the Amendment and Waiver No. 3, dated as of May 9, 2007, and Amendment No. 4 to the Credit Agreement, dated as of December 19, 2008 (as now or hereafter amended, restated, waived or otherwise modified, the "Credit Agreement").

B. The Borrower has requested that the Administrative Agent and the Lenders consent to the following amendment to the Credit Agreement.

C. This Amendment No. 5 shall constitute a Transaction Document and these Recitals shall be construed as part of this Amendment No. 5.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, and of the Loans and other extensions of credit heretofore, now or hereafter made to, or for the benefit of, the Borrower by the Lenders, the Borrower, the Guarantors, the Administrative Agent, and the Lenders hereby agree as follows:

1. Definitions. Except to the extent otherwise specified herein, capitalized terms used in this Amendment No. 5 shall have the same meanings ascribed to them in the Credit Agreement.

2. Amendments. Subject to Section 4, the Credit Agreement is hereby amended as follows:

2.1 The definition for "EBITDA" in Section 1.01 ("Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""EBITDA" means, for any period, the sum for the Borrower and its Subsidiaries, determined on a consolidated basis of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Mexican GAAP,

subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA for any applicable period pursuant to any determination of the Consolidated Net Debt / EBITDA Ratio (but not the Consolidated Fixed Charge Coverage Ratio): (A) (i) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Disposition, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such applicable period (but when the Material Disposition is by way of lease, income received by the Borrower or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving *pro forma* effect thereto (including the incurrence or assumption of any Debt) as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any Person that subsequently shall have become a Subsidiary or was merged or consolidated with the Borrower or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Disposition or Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Borrower or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Disposition or Acquisition had occurred on the first day of such applicable period; and (B) all EBITDA for each applicable period ending on or after December 31, 2008 will be recalculated by multiplying each month's EBITDA by the Ending Exchange Rate and dividing the amount obtained thereto by the exchange rate used by the Borrower in preparation of its monthly financial statements in accordance with Mexican GAAP to convert U.S.$ into Mexican pesos (such recalculated EBITDA being the "Recalculated EBITDA"), provided, that, the Required Lenders shall have the option, with respect to any Reference Period ending after December 31, 2009, to discontinue the incorporation of Recalculated EBITDA into the Consolidated Net Debt/EBITDA Ratio (the "Discontinue Option"). The Required Lenders may exercise the Discontinue Option upon notice to the Administrative Agent, who shall, acting upon the instructions of the Required Lenders, notify the Borrower of such exercise in writing (the " Notice of Discontinuance") at least thirty (30) days prior to the end of such Reference Period. Subject to the foregoing notice requirements, such Discontinue Option shall be effective for each Reference Period ending after the date of such Notice of Discontinuance to the Borrower as set forth herein."

2.2 The definition for "Ending Exchange Rate" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Ending Exchange Rate" means the exchange rate at the end of a Reference Period for converting U.S.$ into Mexican pesos, used by the Borrower and its auditors in preparation of the Borrower's financial statements in accordance with Mexican GAAP."

2.3 The definition of "U.S.$/Euro EBITDA" in Section 1.01 (" Certain Definitions") shall be deleted in its entirety.

3. Representations and Warranties. The Borrower and each of the other Credit Parties hereby represent and warrant to the Administrative Agent and the Lenders that:

3.1 The representations and warranties of the Borrower contained in the Credit Agreement are true and correct as of the date of this Amendment No. 5; provided, however, that with respect to Section 5.11 ("Ownership of Property"), the representations and warranties are true and correct,

other than as is set forth in the Risk Factors in the Borrower's Form 20-F for the year ended December 31, 2007 filed with the SEC and updated in the Borrower's Form 6-K filed on August 19, 2008 with the SEC, in each case with respect to CEMEX Venezuela S.A.C.A.

3.2 The representations and warranties of the Guarantors contained in the Credit Agreement are true and correct as of the date of this Amendment No. 5.

3.3 The execution, delivery and performance by the Borrower and each of the other Credit Parties of this Amendment No. 5 has been duly authorized by all necessary corporate action, and this Amendment No. 5 constitutes the legal, valid and binding obligation of the Borrower and each of the other Credit Parties enforceable against the Borrower and each of the other Credit Parties in accordance with its terms, except as enforceability may be limited by applicable *concurso mercantil,* bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally or general equity principles.

3.4 The execution, delivery and performance of this Amendment No. 5 does not, and will not, contravene or conflict with any provision of (i) any Requirement of Law, (ii) any judgment, decree or order, or (iii) the certificate or articles of incorporation or by-laws or other constituent documents of the Borrower and the Credit Parties, and does not, and will not, contravene or conflict with, or cause any Lien to arise under, any provision of any Contractual Obligation applicable to the Borrower and the Credit Parties.

3.5 No Default or Event of Default exists under the Credit Agreement or any other Transaction Document or will exist after or be triggered by the execution, delivery and performance of this Amendment No. 5. In addition, the Borrower and each of the other Credit Parties hereby represent, warrant and reaffirm that the Credit Agreement, the Notes and each of the other Transaction Documents remain in full force and effect.

4. Conditions Precedent to Effectiveness. The effectiveness of the amendments set forth in Section 2 hereof are in each instance subject to the satisfaction of each of the following conditions precedent (the date on which all such conditions precedent are satisfied or waived being the " Amendment No. 5 Effective Date"):

4.1 Amendment No. 5. This Amendment No. 5 shall have been duly authorized, executed and delivered by each of the Borrower, the Guarantors and the Required Lenders, and acknowledged by the Administrative Agent (which shall be a purely ministerial action).

4.2 No Default. After giving effect to this Amendment No. 5, no Default or Event of Default shall have occurred and be continuing, or would result from the execution or effectiveness of this Amendment No. 5.

4.3 No Material Adverse Effect. No Material Adverse Effect has occurred since December 31, 2007 (excluding the financial condition and events previously disclosed in (i) the Borrower's filings made with the SEC or the *Bolsa Mexicana de Valores, S.A.B de C.V.* after December 31, 2007; or (ii) in the Borrower's unaudited financial statements for each of the first three fiscal periods of 2008).

4.4 Solvency. The Borrower and each Guarantor is, and after giving effect to each of the transactions contemplated by this Amendment No. 5 and the Transaction Documents will be, Solvent.

4.5 Miscellaneous. The Administrative Agent and the Lenders shall have received such other agreements, instruments and documents as the Administrative Agent or the Lenders may reasonably request.

4.6 Other Facilities. This Amendment shall not be effective until the debt obligations set forth on Exhibit A attached hereto have been amended in form and substance reasonably satisfactory to the Lenders and the Borrower shall have notified the Administrative Agent of such modification in writing.

5. Reference to and Effect Upon the Credit Agreement and other Transaction Documents .

5.1 Full Force and Effect. Except as specifically provided herein, the Credit Agreement, the Notes and each other Transaction Document shall remain in full force and effect and each Note, Transaction Document, and the Credit Agreement is hereby ratified and confirmed by the Borrower.

5.2 No Waiver. The execution, delivery and effect of this Amendment No. 5 shall be limited precisely as written and shall not be deemed to (i) be a consent to any waiver of any term or condition, or to any amendment or modification of any term or condition (except as specifically provided herein) of the Credit Agreement, the Notes or any other Transaction Document, (ii) prejudice any right, power or remedy which the Administrative Agent or any Lender now has or may have in the future under or in connection with the Credit Agreement or any other Transaction Document or (iii) constitute a novation of any of the obligations under the Credit Agreement, the Notes, and the other Transaction Documents.

5.3 Certain Terms. Each reference in the Credit Agreement to “this Agreement”, “hereunder”, “hereof”, “herein” or any other word or words of similar import shall mean and be a reference to the Credit Agreement as amended hereby, and each reference in any other Transaction Document to the Credit Agreement or any word or words of similar import shall be and mean a reference to the Credit Agreement as amended hereby.

6. Counterparts. This Amendment No. 5 may be executed in any number of counterparts, each of which when so executed shall be deemed an original but all such counterparts shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment No. 5 by telecopier shall be as effective as delivery of a manually executed counterpart signature page to this Amendment No. 5.

7. Costs and Expenses. As provided in the Credit Agreement, the Borrower shall pay the reasonable fees, costs and expenses incurred by the Administrative Agent in connection with the preparation, execution and delivery of this Amendment No. 5 (including, without limitation, attorneys’ fees).

8. GOVERNING LAW. THIS AMENDMENT NO. 5 SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK.

9. Headings. Section headings in this Amendment No. 5 are included herein for convenience of reference only and shall not constitute a part of this Amendment No. 5 for any other purpose.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

CEMEX, S.A.B. de C.V.,
as Borrower

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-Fact

[Signature Page Amendment No. 5 to $1.2bn Facility – Cemex S.A.B. de C.V.]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

CEMEX MÉXICO, S.A. de C.V.,
as a Guarantor

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-Fact

[Signature Page Amendment No. 5 to $1.2bn Facility – Cemex México, S.A. de C.V.]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

EMPRESAS TOLTECA de MÉXICO, S.A. de C.V.,
as a Guarantor

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-Fact

[Signature Page Amendment No. 5 to $1.2bn Facility – Empresas Tolteca de México, S.A. de C.V]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

BARCLAYS BANK PLC,
as Administrative Agent and as Lender

By /s/ Nicholas A. Bell
Name: Nicholas A. Bell
Title: Director

[Signature Page Amendment No. 5 to $1.2bn Facility – Barclays Bank PLC]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

CITIBANK, N.A., NASSAU, BAHAMAS BRANCH,
as Lender

By /s/ Leslie Munroe
Name: Leslie Munroe
Title: Attorney-In-Fact

[Signature Page Amendment No. 5 to $1.2bn Facility – Citibank, N.A., Nassau, Bahamas Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

BANCO SANTANDER, S.A., NEW YORK BRANCH,
as a Lender

By /s/ Jorge Saavedra
Name: Jorge Saavedra
Title: Executive Director

By /s/ Jesus Lopez
Name: Jesus Lopez
Title: Vice President

[Signature Page Amendment No. 5 to $1.2bn Facility – Banco Santander, S.A., New York Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

THE BANK OF NOVA SCOTIA,
as a Lender

By /s/ Marian Lawson
Name: Marian Lawson
Title: Managing Director

[Signature Page Amendment No. 5 to $1.2bn Facility – The Bank of Nova Scotia]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

BANCO BILBAO VIZCAYA ARGENTARIA, S.A., GRAND CAYMAN BRANCH,
as a Lender

By /s/ Rodolfo Hare
Name: Rodolfo Hare
Title: Global Corporate Banking

By /s/ Guilherme Gobbo
Name: Guilherme Gobbo
Title: Global Corporate Banking

[Signature Page Amendment No. 5 to $1.2bn Facility – BBVA, S.A., Grand Cayman Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

BNP PARIBAS PANAMA BRANCH,
as a Lender

By /s/ Raúl Ardito Barletta
Name: Raúl Ardito Barletta
Title: Executive Vice President

By /s/ Christian Giraudon
Name: Christian Giraudon
Title: General Manager

[Signature Page Amendment No. 5 to $1.2bn Facility – BNP Paribas Panama Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

CALYON NEW YORK BRANCH,
as a Lender

By /s/ Jesus Tueme
Name: Jesus Tueme
Title: Managing Director

By /s/ Kevin Flood
Name: Kevin Flood
Title: Vice President

[Signature Page Amendment No. 5 to $1.2bn Facility – Calyon New York Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

ING BANK N.V. (ACTING THROUGH ITS CURACAO BRANCH),
as a Lender

By /s/ H.F.J. (Freddy) ten Holt
Name: H.F.J. (Freddy) ten Holt
Title: Chief Financial Officer

By /s/ A. C. Maduro
Name: A. C. Maduro
Title: Risk Manager

[Signature Page Amendment No. 5 to $1.2bn Facility – ING Bank N.V., Acting through its Curacao Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

WACHOVIA BANK, NATIONAL ASSOCIATION,
as a Lender

By /s/ Kathleen H. Reedy
Name: Kathleen H. Reedy
Title: Managing Director

[Signature Page Amendment No. 5 to $1.2bn Facility – Wachovia Bank, National Association]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

BAYERISCHE LANDESBANK, NEW YORK BRANCH,
as a Lender

By /s/ Nikolai von Mengden
Name: Nikolai von Mengden
Title: Senior Vice President

By /s/ Gina Hoey
Name: Gina Hoey
Title: Vice President

[Signature Page Amendment No. 5 to $1.2bn Facility – Bayerische Landesbank, New York Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

FORTIS CAPITAL CORP.,
as a Lender

By /s/ Miguel Otero
Name: Miguel Otero
Title: Senior Corporate Manager

[Signature Page Amendment No. 5 to $1.2bn Facility – Fortis Capital Corp.]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

THE ROYAL BANK OF SCOTLAND PLC,
as a Lender

By /s/ [illegible]
Name: [illegible]
Title: MD

By /s/ illegible
Name: [illegible]
Title: Director

[Signature Page Amendment No. 5 to $1.2bn Facility – The Royal Bank of Scotland PLC]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

SOCIÉTÉ GÈNÉRALE,
as a Lender

By /s/ Ambrish Thanawala
Name: Ambrish Thanawala
Title: Managing Director

[Signature Page Amendment No. 5 to $1.2bn Facility – Société Gènérale]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

BANK OF AMERICA, N.A.,
as a Lender

By /s/ Emilio Arriaga
Name: Emilio Arriaga
Title: Vice President

[Signature Page Amendment No. 5 to $1.2bn Facility – Bank of America, N.A.]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.,
as a Lender

By /s/ Makoto Kinoshita
Name: Makoto Kinoshita
Title: VP & Manager

[Signature Page Amendment No. 5 to $1.2bn Facility – The Bank of Tokyo-Mitsubishi UFJ, Ltd.]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

JPMORGAN CHASE BANK, N.A.,
as a Lender

By /s/ Pablo Ogarrio
Name: Pablo Ogarrio
Title: Vice President

[Signature Page Amendment No. 5 to $1.2bn Facility – JPMorgan Chase Bank, N.A.]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

INTESA SANPAOLO S.p.A., NEW YORK BRANCH,
as a Lender

By /s/ Barbara J. Bassi
Name: Barbara J. Bassi
Title: Vice President

By /s/ [illegible]
Name: [illegible]
Title: [illegible]

[Signature Page Amendment No. 5 to $1.2bn Facility – Intesa Sanpaolo S.p.A., New York Branch]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

CAJA DE AHORROS Y MONTE DE
PIEDAD DE MADRID MIAMI AGENCY,
as a Lender

By /s/ Jose Cueto
Name: Jose Cueto
Title: Senior VP & Deputy General Manager

By /s/ Jesus Miramon
Name: Jesus Miramon
Title: Deputy General Manager

[Signature Page Amendment No. 5 to $1.2bn Facility – Caja de Madrid Miami Agency]

IN WITNESS WHEREOF, this Amendment No. 5 has been duly executed as of the date first written above.

MORGAN STANLEY BANK,
as a Lender

By /s/ Melissa James
Name: Melissa James
Title: Authorized Signatory

[Signature Page Amendment No. 5 to $1.2bn Facility – Morgan Stanley Bank]

EXHIBIT A

(1) Amended and Restated Credit Agreement, dated as of June 6, 2005, by and among CEMEX S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V. and Empresas Tolteca de México S.A. de C.V., as guarantors, Barclays Bank PLC, New York Branch, as issuing bank and documentation agent, ING Bank N.V., as issuing bank, the several lenders party thereto, and Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint bookrunner, Citigroup Global Markets Inc., as joint bookrunner and syndication agent, and ING Capital LLC, as joint bookrunner and administrative agent, for an aggregate principal amount of U.S.$700,000,000, as amended by Amendment No. 1 thereto, dated as of June 21, 2006, the Amendment and Waiver Agreement, dated as of December 1, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of December 19, 2008.

(2) Amended and Restated Facilities Agreement, dated as of December 19, 2008, by and among New Sunward Holding B.V., as borrower, CEMEX S.A.B. de C.V., CEMEX México S.A. de C.V. and Empresas Tolteca de México S.A. de C.V., as original guarantors, Banco Bilbao Vizcaya Argentaria, S.A., BNP Paribas and Citigroup Global Markets, Inc., as arrangers, and Citibank, N.A. as agent and on behalf of the finance parties, for an aggregate principal amount of U.S.$700,000,000.

(3) Senior Unsecured Maturity Loan "A" Agreement, dated as of December 31, 2008, by and among NSH, as borrower, CEMEX S.A.B. de C.V., and CEMEX México S.A. de C.V., as guarantors, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto, for an aggregate principal amount of U.S.$525,000,000.

(4) Senior Unsecured Maturity Loan "B" Agreement, dated as of December 31, 2008, by and among NSH, as borrower, CEMEX S.A.B. de C.V., and CEMEX México S.A. de C.V., as guarantors, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto, for an aggregate principal amount of U.S.$525,000,000.

(5) Credit Agreement, dated as of June 25, 2008, among CEMEX S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V., as guarantor, and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch, as lender, for an aggregate principal amount of U.S.$500,000,000, as amended by the First Amendment to the Credit Agreement, dated as of December 19, 2008.

EXHIBIT 4.10

CONFORMED COPY
Incorporating changes made pursuant to an
Amendment Agreement dated 23 January 2009

US$700,000,000

AMENDED AND RESTATED FACILITIES AGREEMENT

Originally dated 27 June 2005
as amended on 22 June 2006 and 30 November 2006
and as amended and restated on 19 December 2008
for

NEW SUNWARD HOLDING B.V.
as Borrower

CEMEX, S.A.B. de C.V. (previously CEMEX, S.A. DE C.V.),
CEMEX MÉXICO, S.A. DE C.V.
and
EMPRESAS TOLTECA DE MÉXICO, S.A. DE C.V.
as Guarantors

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.
BNP PARIBAS
and
CITIGROUP GLOBAL MARKETS, INC.
as Joint Bookrunners

with

CITIBANK, N.A.
acting as Agent

TERM AND REVOLVING FACILITIES AGREEMENT

CONTENTS

THIS TERM AND REVOLVING FACILITIES AGREEMENT is dated 27 June 2005 as amended and/or restated from time to time and made between:

(1) **NEW SUNWARD HOLDING B.V.** (the "**Borrower**");

(2) **THE COMPANIES** listed in Part IB of Schedule 1 (*The Original Obligors*) as original guarantors (the " **Original Guarantors**");

(3) **BANCO BILBAO VIZCAYA ARGENTARIA, S.A., BNP PARIBAS AND CITIGROUP GLOBAL MARKETS, INC.** as mandated lead arrangers and joint bookrunners (whether acting individually or together the " **Arranger**");

(4) **THE FINANCIAL INSTITUTIONS** listed in Part II of Schedule 1 (*The Original Lenders*) as lenders (the "**Original Lenders**"); and

(5) **CITIBANK, N.A.,** acting through its Delaware Branch, as agent of the other Finance Parties (the **"Agent"**).

IT IS AGREED as follows:

SECTION 1
INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Accession Letter**" means a document substantially in the form set out in Schedule 9 (*Form of Accession Letter*).

"**Acquired Debt**" means, with respect to any specified Person, Debt of any other Person existing at the time such Person becomes a Subsidiary of such specified Person or assumed in connection with the acquisition of assets from such Person.

"**Acquired Subsidiary**" means any Subsidiary acquired by any Obligor or by any Subsidiary of any Obligor after the date hereof in an Acquisition, and any Subsidiaries of such Acquired Subsidiary on the date of such Acquisition.

"**Acquiring Subsidiary**" means any Subsidiary formed by any Obligor or by a Subsidiary of any Obligor solely for the purpose of participating as the acquiring party in any Acquisition, and any Subsidiaries of such Acquiring Subsidiary acquired in such Acquisition.

"**Acquisition**" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if upon the completion of such transaction or transactions, any Obligor or any Subsidiary thereof has acquired an interest in any Person who is deemed to be a Subsidiary under this Agreement and was not a Subsidiary prior thereto.

"**Additional Cost Rate**" has the meaning given to it in Schedule 4 (*Mandatory Cost Formulae*).

"**Additional Guarantor**" means a company which becomes an Additional Guarantor in accordance with Clause 24 (*Changes to the Obligors*).

"**Adjusted Consolidated Net Tangible Assets**" means, with respect to any Person, the total assets of such Person and its Subsidiaries (less applicable depreciation, amortisation and other valuation reserves), including any write-ups or restatements required under Applicable GAAP (other than with respect to items referred to in clause (b) below), minus (a) all current liabilities of such Person and its Subsidiaries (excluding the current portion of long-term debt) and (b) all goodwill, trade names, trademarks, licenses, concessions, patents, un-amortised debt discount and expense and other intangibles, all as determined on a consolidated basis in accordance with Applicable GAAP.

"**Affiliate**" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"**Agency Fee Letter**" means the dated 25 May 2005 between Citigroup Global Markets, Inc., the Agent, the Borrower and CEMEX Parent setting out certain of the fees referred to in Clause 12.2 (*Agency fee*).

"**Agent's Spot Rate of Exchange**" means the Agent's spot rate of exchange for the purchase of the relevant currency with the Base Currency in the London foreign exchange market as of 11:00 a.m. London time on a particular day.

"**Amendment No. 3 Effective Date**" means the date on which the amendment and restatement agreement dated on or about 19 December 2008 and made between the Company, the Guarantors, the Agent and the Arranger becomes effective in accordance with its terms.

"**Applicable GAAP**" means, with respect to any Person, Mexican FRS or other generally accepted accounting principles required to be applied to such Person in the jurisdiction of its incorporation or organisation and used in preparing such Person's financial statements.

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Authorised Signatory**" means, in relation to any Obligor, any person who is duly authorised and in respect of whom the Agent has received a certificate signed by a director or another Authorised Signatory of such Obligor setting out the name and signature of such person and confirming such person's authority to act.

"**Availability Period**" means the period from and including the date of this Agreement to and including:

(a) in respect of Facility A, the date falling 10 Business Days after the date of this Agreement; and

(b) in respect of Facility B, the day which falls one month before the Termination Date relating to Facility B.

"**Available Commitment**" means, in relation to a Facility, a Lender's Commitment under that Facility minus:

(a) the Base Currency Amount of its participation in any outstanding Utilisations under that Facility; and

(b) in relation to any proposed Utilisation, the Base Currency Amount of its participation in any other Utilisations that are due to be made under that Facility on or before the proposed Utilisation Date,

other than, in relation to any proposed Utilisation under Facility B only, any participation in Facility B Loans which are due to be repaid or prepaid on or before the proposed Utilisation Date.

"**Available Facility**" means, in relation to a Facility, the aggregate for the time being of each Lender's Available Commitment in respect of that Facility.

"**Base Currency**" means US dollars.

"**Base Currency Amount**" means in relation to a Utilisation, the amount specified in the Utilisation Request delivered by the Borrower for that Utilisation (or, if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is three Business Days before the Utilisation Date) as adjusted to reflect any repayment, prepayment, consolidation or division of a Utilisation.

"**Board**" means the Board of Governors of the Federal Reserve System of the United States (or any successor).

"**Break Costs**" means the amount (if any) by which:

(a) the interest (excluding the applicable Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

(b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the day of receipt or recovery if a Business Day and if received or recovered before 2 pm London time (or, if not, on the Business Day following receipt or recovery) and ending on the last day of the current Interest Period.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in Amsterdam and New York, and:

(a) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, a currency other than euro) London and the principal financial centre of the country of that currency; or

(b) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, euro) any TARGET Day.

"**Capital Expenditure**" means, for any period, (a) the additions to property, plant and equipment and other capital expenditures of CEMEX Parent and its Subsidiaries that are (or should be) set forth in a consolidated statement of cash flows of CEMEX Parent for such period prepared in accordance with Mexican FRS and (b) any Capital Leases incurred by CEMEX Parent and its Subsidiaries during such period.

"**Capital Lease**" means, as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under Applicable GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalised amount thereof at such time determined in accordance with Applicable GAAP.

"**Capital Stock**" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

"**CEMEX Parent**" means CEMEX, S.A.B. de C.V. (previously CEMEX, S.A. de C.V.), a company (*sociedad anónima de capital variable*) incorporated in Mexico.

"**CEMEX Spain**" means CEMEX España, S.A., a company (*sociedad anónima*) incorporated under the laws of Spain, No. Hoja-Registro Mercantil, Madrid: M -156542, NIF A46/004214.

"**Commitment**" means a Facility A Commitment and/or Facility B Commitment.

"**Compliance Certificate**" means a certificate substantially in the form set out in Schedule 6 (*Form of Compliance Certificate*).

"**Confidentiality Undertaking**" means a confidentiality undertaking substantially in the form set out in Schedule 7 (*Form of Confidentiality Undertaking*) or in any other form agreed between the Borrower and the Agent.

"**Consolidated Fixed Charge Coverage Ratio**" means, for any Relevant Period, the ratio of (a) EBITDA for such period to (b) Consolidated Fixed Charges for such period.

"**Consolidated Fixed Charges**" means, for any period, the sum (without duplication) of (a) Consolidated Interest Expense for any Relevant Period, and (b) to the extent not included in (a) above, payments during such periods in respect of the financing costs of financial derivatives in the form of equity swaps.

"**Consolidated Interest Expense**" means, for any period, the total gross interest expense of CEMEX Parent and its consolidated Subsidiaries allocable to such period in accordance with Mexican FRS.

"**Consolidated Leverage Ratio**" means, on any date of determination, the ratio of (a) Consolidated Net Debt on such date to (b) EBITDA for the four (4) quarter period ending on such date (subject to adjustment as set forth in the definition of EBITDA).

"**Consolidated Net Debt**" means, at any date, the sum (without duplication) of (a) the aggregate amount of all Debt of CEMEX Parent and its Subsidiaries at such date, plus (b) to the extent not included in Debt, the aggregate amount of all derivative financing in the form of equity swaps outstanding at such date (save to the extent such exposure is cash collateralised), minus (c) all Temporary Investments (for the avoidance of doubt, net of any amounts pledged as cash collateral) of CEMEX Parent and its Subsidiaries at such date.

"**Contractual Obligation**" as to any Person, any provision of any security issued or guaranteed by such Person or of any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which such Person is a party or by which it or any of its property is bound.

"**CTW**" means CEMEX Trademarks Worldwide Ltd., a commercial company organised and existing under the laws of Switzerland.

"**Debt**" means, as to any Person at any time, without duplication:

(a) all obligations of such Person for borrowed money;

(b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

(c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business;

(d) all obligations of such Person as lessee under Capital Leases;

(e) all Debt of others secured by a Lien on any asset or property of such Person, up to the value of such asset, as recorded in such Person's most recent balance sheet;

(f) all obligations of such Person with respect to product invoices incurred in connection with export financing;

(g) all obligations of such Person under repurchase agreements for the stock issued by such Person or another Person; and

(h) all Guarantees of such Person in respect of any of the foregoing.

For the avoidance of doubt, Debt does not include Derivatives or Qualified Receivables Transactions. With respect to CEMEX Parent and its Subsidiaries, the aggregate amount

of Debt outstanding shall be adjusted by the Value of Debt Currency Derivatives solely for the purposes of calculating the Consolidated Leverage Ratio. If the Value of Debt Currency Derivatives is a positive mark-to-market valuation for CEMEX Parent and its Subsidiaries, then Debt shall decrease accordingly, and if the Value of Debt Currency Derivatives is a negative mark-to-market valuation for CEMEX Parent and its subsidiaries, then Debt shall increase by the absolute value thereof.

"**Debt Currency Derivatives**" means derivatives of the CEMEX Parent and its Subsidiaries related to currency entered into for the purposes of hedging exposures under outstanding Debt of the CEMEX Parent and its Subsidiaries, including, but not limited to, cross-currency swaps and currency forwards.

"**Default**" means an Event of Default or any event or circumstance specified in Clause 22 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"**Derivatives**" means any type of derivative obligations, including, without limitation, equity forwards, capital hedges, cross-currency swaps, currency forwards, interest rate swaps and swaptions.

"**Discontinued EBITDA**" means, for any period, the sum for Discontinued Operations of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortisation expense, in each case determined in accordance with Mexican FRS consistently applied for such period.

"**Discontinued Operations**" means operations that are accounted for as discontinued operations pursuant to Mexican FRS for which the Disposition of such assets has not yet occurred.

"**Disposition**" means, with respect to any property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof. The terms "**Dispose**" and "**Disposed of**" shall have correlative meanings.

"**Dutch Central Bank**" means the central bank of The Netherlands (*De Nederlandsche Bank N.V.*).

"**Dutch Civil Code**" means the Dutch Civil Code (*Burgerlijk Wetboek*).

"**Dutch Loan Agreement**" means each of the Senior Unsecured Dutch Loan "A" Agreement and the Senior Unsecured Dutch Loan "B" Agreement, dated as of June 2, 2008 by and among New Sunward Holding B.V., as borrower, CEMEX, S.A.B. de C.V. and CEMEX México, S.A. de C.V., as guarantors, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A. and The Royal Bank of Scotland PLC, as joint lead arrangers and joint bookrunners, ING Capital LLC, as administrative agent and ING Bank N.V. acting through its Curaçao Branch and Caja de Madrid – Miami Agency as mandated lead arrangers.

"**EBITDA**" means, for any period, the sum for CEMEX Parent and its Subsidiaries, determined on a consolidated basis of (a) operating income (utilidad de operación), (b)

cash interest income and (c) depreciation and amortisation expense, in each case determined in accordance with Mexican FRS, subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA for any applicable period pursuant to any determination of the Consolidated Leverage Ratio (but not the Consolidated Fixed Charge Coverage Ratio): (A) (i) if at any time during such applicable period CEMEX Parent or any of its Subsidiaries shall have made any Material Disposition, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such applicable period (but when the Material Disposition is by way of lease, income received by CEMEX Parent or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such applicable period CEMEX Parent or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving pro forma effect thereto (including the incurrence or assumption of any Debt) as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any Person that subsequently shall have become a Subsidiary of CEMEX Parent or was merged or consolidated with CEMEX Parent or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Disposition or Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by CEMEX Parent or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving pro forma effect thereto as if such Disposition or Acquisition had occurred on the first day of such applicable period; and (B) all EBITDA for each applicable period ending on or after December 31, 2008 will be recalculated by multiplying each month's EBITDA by the Ending Exchange Rate and dividing the amount obtained thereto by the exchange rate used by CEMEX Parent in preparation of its monthly financial statements in accordance with Mexican FRS to convert US$ into Pesos (such recalculated EBITDA being the "Recalculated EBITDA"), provided that, the Majority Lenders shall have the option, with respect to any Relevant Period ending after December 31, 2009, to discontinue the incorporation of Recalculated EBITDA into the Consolidated Leverage Ratio (the " **Discontinue Option**"). The Majority Lenders may exercise the Discontinue Option upon notice to the Agent, who shall, acting upon the instructions of the Majority Lenders, notify the Borrower of such exercise in writing (the "**Notice of Discontinuance**") at least thirty (30) days prior to the end of the Relevant Period. Subject to the foregoing notice requirements, such Discontinue Option shall be effective for each Relevant Period ending after the date of such Notice of Discontinuance to the Borrower as set forth herein.

"**Ending Exchange Rate**" means the exchange rate at the end of a Relevant Period for converting US$ into Pesos, used by CEMEX Parent and its auditors in preparation of CEMEX Parent's financial statements in accordance with Mexican FRS.

"**Environmental Action**" means any audit procedure, action, suit, demand, demand letter, claim, notice of non-compliance or violation, notice of liability or potential liability, investigation, proceeding, consent order or consent agreement relating in any way to any Environmental Law, Environmental Permit or Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment, including (a) by any Governmental Authority for enforcement, cleanup, removal, response, remedial or other actions or damages and (b) by any Governmental Authority or any third party for damages, contribution, indemnification, cost recovery, compensation or injunctive relief.

"**Environmental Law**" means any federal, state, local or foreign statute, law, ordinance, rule, regulation, technical standard (*norma técnica or norma oficial Mexicana*), code, order, judgment, decree or judicial agency interpretation, policy or guidance relating to pollution or protection of the environment, health, safety or natural resources, including those relating to the use, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials.

"**Environmental Permit**" means any permit, approval, identification number, licence or other authorization required under any Environmental Law.

"**EURIBOR**" means, in relation to any Loan in euro:

(a) the applicable Screen Rate; or

(b) (if no Screen Rate is available for the Interest Period of that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request quoted by the Reference Banks to leading banks in the European interbank market,

as of 11.00 a.m. (London time) on the Quotation Day for the offering of deposits in euro for a period comparable to the Interest Period of the relevant Loan.

"**Euro**" means the currency of participating member states of the European Union that adopt a single currency in accordance with the Treaty on European Union of February 7, 1992.

"**Event of Default**" means any event or circumstance specified as such in Clause 22 (*Events of Default*).

"**Exchange Act**" means the U.S. Securities Exchange Act of 1943, as amended.

"**Existing NSH Facility Agreement**" means the US$1,150,000,000 term loan agreement dated October 15, 2003 and made between, amongst others, the Borrower as borrower, the Guarantors as guarantors and Citibank N.A. as administration agent.

"**Facility**" means Facility A or Facility B.

"**Facility A**" means the multicurrency term loan facility made available under this Agreement as described in paragraph (a) of Clause 2.1 (*The Facilities*).

"**Facility A Commitment**" means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility A Commitment" in Part II of Schedule 1 (*The Original Lenders*) and the amount of any other Facility A Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility A Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility A Loan**" means a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

"**Facility A Note**" means a promissory note of the Borrower substantially in the form of Part I of Schedule 13 (*Form of Facility A Note*) relating to amounts to be drawn under Facility A and reflecting the terms of this Agreement.

"**Facility A Repayment Date**" means the day falling 24 Months after the date of this Agreement.

"**Facility B**" means the multicurrency revolving loan facility made available under this Agreement as described in paragraph (b) of Clause 2.1 (*The Facilities*).

"**Facility B Commitment**" means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility B Commitment" in Part II of Schedule 1 (*The Original Lenders*) and the amount of any other Facility B Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility B Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility B Loan**" means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

"**Facility B Note**" means a promissory note of the Borrower substantially in the form of Part II of Schedule 13 (*Form of Facility B Note*) relating to amounts to be drawn under Facility B and reflecting the terms of this Agreement.

"**Facility Office**" means the office or offices notified by a Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

"**FAS 140**" means Financial Accounting Standards Board Statement No. 140 or any Statement replacing the same, in each case as amended, modified or supplemented from time to time.

"**Fee Letter**" means the fee letter dated 25 May 2005 between the Arrangers, the Borrower and CEMEX Parent setting out certain of the fees referred to in Clause 12 (*Fees*).

"**Finance Document**" means this Agreement, any Note, any Accession Letter, the Fee Letter, the Agency Fee Letter and any other document designated as a "Finance Document" by the Agent and the Borrower.

"**Finance Party**" means the Agent, the Arranger or a Lender.

"**First Utilisation Date**" means the date on which the first Utilisation is made under this Agreement.

"**FMSA**" means the Netherlands Financial Markets Supervision Act (*Wet op het financieel toezicht*) including any and all subordinate decrees and regulations issued pursuant thereto.

"**Governmental Authority**" means any branch of power or government or any state, department or other political subdivision thereof, or any governmental body, agency, authority (including any central bank or taxing or environmental authority), any entity or instrumentality (including any court or tribunal) exercising executive, legislative, judicial, regulatory, administrative or investigative functions of or pertaining to government.

"**Group**" means the Borrower and each of its Subsidiaries for the time being.

"**Guarantee**" means, as applied to any Debt of another Person, (i) a guarantee, direct or indirect, in any manner, of any part or all of such Debt and (ii) any direct or indirect obligation, contingent or otherwise, of a Person guaranteeing or having the effect of guaranteeing the Debt of any other Person in any manner (and "**Guaranteed**" and "**Guaranteeing**" shall have meanings that correspond to the foregoing).

"**Guarantors**" means the Original Guarantors and any Additional Guarantor other than any such Original Guarantor or Additional Guarantor which has ceased to be a Guarantor pursuant to Clause 24.3 (*Resignation of Guarantor*) and has not subsequently become an Additional Guarantor pursuant to Clause 24.2 (*Additional Guarantors*) and "**Guarantor**" means any of them.

"**Hazardous Materials**" means (a) radioactive materials, asbestos-containing materials, polychlorinated biphenyls, radon gas and (b) any other chemicals, materials or substances designated, classified or regulated as hazardous or toxic or as a pollutant or contaminant under any applicable Environmental Law.

"**Holding Company**" means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

"**IFRS**" means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

"**Incur**" means, with respect to any Debt of any Person, to create, issue, incur (by conversion, exchange or otherwise), assume, Guarantee or otherwise become liable in

respect of such Debt or the recording, as required pursuant to Mexican FRS or otherwise, of any such Debt on the balance sheet of such Person. Debt otherwise Incurred by a Person before it becomes a Subsidiary of CEMEX Parent shall be deemed to be Incurred at the time at which such Person becomes a Subsidiary of CEMEX Parent. "**Incurrence**, " "**Incurred**, " "**Incurrable**" and "**Incurring**" shall have meanings that correspond to the foregoing.

"**Intellectual Property**" means the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under Mexican, multinational or foreign laws or otherwise, including copyrights, copyright licences, patents, patent licences, trademarks, trademark licences, technology, know-how and processes, trade secrets, any applications associated with the foregoing, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

"**Interest Period**" means, in relation to a Loan, each period determined in accordance with Clause 10 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 9.3 (*Default interest*).

"**Investment**" by CEMEX Parent or its Subsidiaries means, any direct or indirect capital contribution (by means of any transfer of cash) to another Person which is not CEMEX Parent or its Subsidiaries, not constituting an Acquisition.

"**Lender**" means:

(a) any Original Lender; and

(b) any bank, financial institution, securitisation trust or fund or other entity which has become a Party in accordance with Clause 23 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

"**LIBOR**" means, in relation to any Loan:

(a) the applicable Screen Rate; or

(b) (if no Screen Rate is available for the currency or Interest Period of that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request quoted by the Reference Banks to leading banks in the London interbank market,

as of 11.00 a.m. (New York time) on the Quotation Day for the offering of deposits in the currency of that Loan and for a period comparable to the Interest Period for that Loan.

"**Lien**" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. Any member of the Group shall be deemed to own, subject to a Lien, any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capital Lease or other title retention agreement relating to such asset, or any account receivable transferred by it with recourse (including any such transfer subject to a hold back or similar arrangement that effectively imposes the risk of collectability on the transferor).

"**LMA**" means the Loan Market Association.

"**Loan**" means a Facility A Loan or a Facility B Loan.

"**Majority Lenders**" means:

(a) if there are no Loans then outstanding, a Lender or Lenders whose Commitments aggregate more than 51% of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 51% of the Total Commitments immediately prior to the reduction); or

(b) at any other time, a Lender or Lenders whose undrawn Commitments and participations in the Loans then outstanding aggregate more than 51% of all the undrawn Commitments and Loans then outstanding.

"**Mandatory Cost**" means the percentage rate per annum calculated in accordance with Schedule 4 (*Mandatory Cost Formulae*).

"**Margin**" means in relation to any Loan the percentage rate per annum determined pursuant to the table set out below:

Facility	Margin % p.a.
Facility A	0.30
Facility B	0.325

(a) in relation to any Unpaid Sum the percentage rate per annum specified above applicable to the Facility in relation to which that Unpaid Sum arises or if such Unpaid Sum does not arise in relation to a particular Facility, the rate per annum specified above applicable to the Facility to which the Agent reasonably determines the Unpaid Sum most closely relates, or if none, the highest rate per annum specified above,

but if:

(i) no Default has occurred and is continuing; and

(ii) for CEMEX Parent and its Subsidiaries, the Consolidated Leverage Ratio in respect of the most recently completed Relevant Period is within a range set out below,

then the Margin for each Loan under each Facility (and for any Unpaid Sum related to that Facility) will be the percentage rate per annum set out below opposite that range:

Consolidated Leverage Ratio	Margin % p.a.	
	Facility A	Facility B
Greater than or equal to 3.0:1	0.30	0.325
Less than 3.0:1 but greater than or equal to 2.5:1	0.25	0.275
Less than 2.5:1 but greater than or equal to 2.0:1	0.20	0.225
Less than 2.0:1	0.15	0.175

However any increase or decrease in the Margin shall take effect on the date (the " **reset date**") which is the first day of the next Interest Period for that Loan following receipt by the Agent of the Compliance Certificate for that Relevant Period pursuant to Clause 20.2 (*Compliance Certificate*) and in the case of a then current Interest Period will apply to the whole of such Interest Period unless any payments of interest have already been made in which case any adjustments to the Margin will apply only from the date of such payment.

"**Material Acquisition**" means any (a) acquisition of property or series of related acquisitions of property that constitutes assets comprising all or substantially all of an operating unit, division or line of business or (b) acquisition of or other investment in the Capital Stock of any Subsidiary of CEMEX Parent or any Person which becomes a Subsidiary of CEMEX Parent or is merged or consolidated with any member of the Group, in each case, which involves the payment of aggregate consideration by any one or more members of the Group in excess of US$25,000,000 (or the equivalent thereof in other currencies).

"**Material Adverse Effect**" means a material adverse effect on:

(a) the business, condition (financial or otherwise), operations, performance, properties or prospects of the Group taken as a whole;

(b) the validity or enforceability of this Agreement or any of the Notes or the rights and remedies of any Finance Party under the Finance Documents; or

(c) the ability of any Obligor to perform its obligations under Finance Documents.

"**Material Debt**" means Debt (other than the Loans) of CEMEX Parent and/or one or more of its Subsidiaries, arising in one or more related or unrelated transactions, in an aggregate principal amount outstanding exceeding US$50,000,000 (or the equivalent thereof in other currencies).

"**Material Disposition**" means any Disposition of property or series of related Dispositions of property that yields gross proceeds to any one or more members of the Group in excess of US$50,000,000 (or the equivalent thereof in other currencies).

"**Material Subsidiary**" means, at any date:

(a) CEMEX Spain, each Trademark Company and each Obligor that is a Subsidiary of CEMEX Parent; and

(b) each other Subsidiary of any Obligor (if any) (i) the assets of which, together with those of its Subsidiaries, on a consolidated basis, without duplication, constitute five per cent. or more of the consolidated assets of CEMEX Parent and its Subsidiaries as of the end of the then most recently ended fiscal quarter or (ii) the operating profit of which, together with that of its Subsidiaries, on a consolidated basis without duplication, constitutes five per cent. or more of the consolidated operating profits of CEMEX Parent and its Subsidiaries for the then most recently ended fiscal quarter for which quarterly financial statements have been prepared.

"**Mexican FRS**" means Mexican Financial Reporting Standards (*Normas de Información Financiera*) as in effect from time to time and consistent with those used in the preparation of the most recent audited financial statements referred to in Section 20.1; provided, however that for purposes of Section 21.13, Mexican FRS means Mexican Financial Reporting Standards as in effect on December 31, 2008. In the event that any change in Mexican FRS shall occur, or CEMEX Parent shall decide to or be required to change to IFRS, and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, then the Borrower and the Agent agree to enter into negotiations in order to amend such provisions of this Agreement so as to equitably reflect such change in Mexican FRS with the desired result that the criteria for evaluating CEMEX Parent's financial condition shall be the same after such change as if such change had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrower, the Agent and the Majority Lenders, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such change in Mexican FRS had not occurred.

"**Mexico**" means the United Mexican States.

"**Month**" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

(a) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day; and

(b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month.

The above rules will only apply to the last Month of any period. "Monthly" shall be construed accordingly.

"**New Holdco**" means a special purpose vehicle company to be incorporated in Spain and which shall, on incorporation, be a Subsidiary of the Company.

"**New Lender**" has the meaning set out in Clause 23.1 (*Assignments and transfers by the Lenders*).

"**Note**" means a Facility A Note or a Facility B Note as the case may be.

"**Obligations**" means:

(a) as to the Borrower, all of its indebtedness, obligations and liabilities of the Borrower to the Lenders and the Agent now or in the future existing under or in connection with the Finance Documents, whether direct or indirect, absolute or contingent, due or to become due; and

(b) as to each Guarantor, all of its indebtedness, obligations and liabilities of such Guarantor to the Lenders and the Agent now or in the future existing under or in connection with the Finance Documents, in each case, whether direct or indirect, absolute or contingent, due or to become due.

"**Obligors**" means the Borrower and the Guarantors and "**Obligor**" means any of them.

"**Off-Balance-Sheet Transaction**" means any financing transaction of any Person not reflected as Debt on the balance sheet of such Person, but being structured in a way that may result in payment obligations by such Person.

"**Optional Currency**" means a currency (other than the Base Currency) which complies with the conditions set out in Clause 4.3 (*Conditions relating to Optional Currencies*).

"**Ordinary Course Loans**" means a loan or advance: (i) made by CEMEX Parent or any of its Subsidiaries to a supplier, vendor, customer or other similar counterparty; (ii) which is due and payable not more than eighteen (18) months after being made (and where the Debt being Incurred to fund such loan or advance has a weighted average life to maturity that is greater than such loan or advance); (iii) made on terms and under circumstances consistent with past practices of CEMEX Parent or such Subsidiary; and (iv) the aggregate principal amount of which, when added to all other such loans and advances, does not exceed at any time US$75,000,000 (or the equivalent in other currencies).

"**Original Financial Statements**" means:

(a) in relation to the Borrower, its audited unconsolidated financial statements for its financial year ended 31 December 2004;

(b) in relation to each Guarantor, its respective audited unconsolidated (and, to the extent available, its audited consolidated) financial statements for its financial year ended 31 December 2004 (if available); and

(c) in relation to any other Obligor, its most recent audited financial statements prior to its becoming a Party.

"**Participating Member State**" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"**Party**" means a party to this Agreement.

"**Permitted Debt**" means, any Debt:

(a) the net proceeds of which are applied to repay, prepay or discharge the Loans or other Debt existing as at the date of such Incurrence and associated costs and expenses, so long as either: (i) the weighted average life to maturity of such new Debt is not less than the remaining weighted average life to maturity of the Debt being repaid, prepaid or otherwise discharged and the proceeds of such new Debt are applied towards such repayment, prepayment or other discharge within fifteen (15) days of such Incurrence; or (ii) such new Debt is incurred under a liquidity facility or facilities in an aggregate principal amount not exceeding U.S.$600,000,000 outstanding at any time, provided that the proceeds of such new Debt are used to repay, prepay or otherwise discharge Debt outstanding on the Effective Date (including any such Debt that has been refinanced) within fifteen (15) days of the Incurrence of such new Debt;

(b) the net proceeds of which are applied to pay obligations of CEMEX Parent and/or its Subsidiaries arising under written agreements existing on the Amendment No. 3 Effective Date, excluding obligations in respect of Capital Expenditures, Restricted Distributions and Investments;

(c) the net proceeds of which are applied for Capital Expenditures (i) made from January 1, 2009 until December 31, 2009 in an aggregate amount per annum not to exceed (A) US$60,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing or (B) US$40,000,000 (or the equivalent in other currencies) in all other cases; or (ii) made from January 1, 2010 until the Termination Date, in each case in an aggregate amount per annum not to exceed (A) US$40,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing or (B) US$60,000,000 (or the equivalent in other currencies) in all other cases and provided that any Debt Incurred pursuant to this clause has a weighted average life to maturity that is greater than the remaining weighted average life to maturity of the Debt under this Agreement;

(d) the net proceeds of which are applied to satisfy obligations of CEMEX Parent or any of its Subsidiaries arising in the ordinary course of business of such Person, excluding obligations in respect of (i) Capital Expenditures, (ii) Restricted Distributions, (iii) Acquisitions, (iv) Investments, and (v) loans and advances made or to be made by such Person, other than Ordinary Course Loans;

(e) owed to CEMEX Parent or any of its consolidated Subsidiaries;

(f) which has become Debt solely due to a change in Mexican FRS;

(g) to the extent resulting from the conversion of a Loan into a Maturity Loan (each as defined in each Dutch Loan Agreement) pursuant to a Dutch Loan Agreement;

(h) to the extent resulting from the closing of, or funding under, a facilities agreement with CEMEX España, S.A. as Borrower, CEMEX Australia Holdings Pty Limited and CEMEX, Inc. as Original Guarantors, Banco Santander, S.A. and The Royal Bank of Scotland Plc as Documentation Agents, and The Royal Bank of Scotland Plc as Facility Agent, in an aggregate amount of up to U.S.$2,000,000,000 (or the equivalent thereof in other currencies) so long as the net proceeds of which are applied to repay, prepay or discharge existing bilateral debt; or

(i) any Guarantee Incurred by CEMEX Parent or any of its Subsidiaries for any of the Debt referred to in paragraphs (a) to (h) above.

"**Permitted Lien**" has the meaning given to that term in Clause 21.14 (*Liens*).

"**Person**" means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture or other business entity, or Governmental Authority, whether or not having a separate legal personality.

"**Process Agent**" means CEMEX UK Limited of CEMEX House, Coldharbour Lane, Thorpe, Egham, Surrey TW20 8TO, Fax: (+44) 01932 568933, Attn: The Secretary.

"**Qualified Receivables Transaction**" means any transaction or series of transactions that may be entered into by any member of the Group pursuant to which such member of the Group may sell, convey or otherwise transfer to a Special Purpose Vehicle (in the case of a transfer by CEMEX Parent or any other Seller) and any other Person (in the case of a transfer by a Special Purpose Vehicle), or may grant a security interest in, any Receivables Program Assets (whether now existing or arising in the future); **provided that**:

(a) no portion of the indebtedness or any other obligations (contingent or otherwise) of a Special Purpose Vehicle (i) is guaranteed by CEMEX Parent or any other Seller or (ii) is recourse to or obligates CEMEX Parent or any other Seller in any way such that the requirements for off balance sheet treatment under FAS 140 are not satisfied; and

(b) CEMEX Parent and the other Sellers do not have any obligation to maintain or preserve the financial condition of a Special Purpose Vehicle or cause such entity to achieve certain levels of operating results.

"**Quotation Day**" means, in relation to any period for which an interest rate is to be determined:

(a) (if the currency is sterling) one Business Day before the first day of that period;

(b) (if the currency is euro) two TARGET Days before the first day of that period; or

(c) (for any other currency) two Business Days before the first day of that period,

unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Day for that currency will be determined by the Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days).

"**Receivables**" means all rights of CEMEX Parent or any other Seller to payments (whether constituting accounts, chattel paper, instruments, general intangibles or otherwise, and including the right to payment of any interest or finance charges), which rights are identified in the accounting records of CEMEX Parent or such Seller as accounts receivable.

"**Receivables Documents**" means:

(a) a receivables purchase agreement, pooling and servicing agreement, credit agreement, agreements to acquire undivided interests in or other agreement to transfer, or create a security interest in, Receivables Program Assets, in each case as amended, modified, supplemented or restated and in effect from time to time entered into by CEMEX Parent, another Seller and/or a Special Purpose Vehicle, and

(b) each other instrument, agreement and other document entered into by CEMEX Parent, any other Seller or a Special Purpose Vehicle relating to the transactions contemplated by the items referred to in clause (a) above, in each case as amended, modified, supplemented or restated and in effect from time to time.

"**Receivables Program Assets**" means:

(a) all Receivables which are described as being transferred by CEMEX Parent, another Seller or a Special Purpose Vehicle pursuant to the Receivables Documents;

(b) all Receivables Related Assets in respect of such Receivables; and

(c) all collections (including recoveries) and other proceeds of the assets described in the foregoing clauses.

"**Receivables Program Obligations**" means:

(a) notes, trust certificates, undivided interests, partnership interests or other interests representing the right to be paid a specified principal amount from the Receivables Program Assets; and

(b) related obligations of CEMEX Parent, a Subsidiary of CEMEX Parent or a Special Purpose Vehicle (including, without limitation, rights in respect of interest or yield hedging obligations, breach of warranty or covenant claims and expense reimbursement and indemnity provisions).

"**Receivables Related Assets**" means with respect to any Receivables:

(a) any rights arising under the documentation governing or relating to such Receivables (including rights in respect of Liens securing such Receivables);

(b) any proceeds of such Receivables; and

(c) other assets which are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitisation transactions involving accounts receivable.

"**Reference Banks**" means, the principal London offices of Citibank N.A., BNP Paribas and Banco Bilbao Vizcaya Argentaria, S.A.or such other banks as may be appointed by the Agent in consultation with the Borrower.

"**Regulation T, U or X**" means Regulation T, U or X, respectively, of the Board as in effect from time to time and any successor to all or a portion thereof.

"**Relevant Interbank Market**" means, in relation to euro, the European interbank market, and, in relation to any other currency, the London interbank market.

"**Relevant Period**" means the last four consecutive fiscal quarters of CEMEX Parent and its Subsidiaries.

"**Repeating Representations**" means each of the representations set out in Clauses 19.1 (*Corporate Existence and Power*) to Clause 19.4 (*Consents/Approvals*), Clause 19.8 (*Direct Obligations: Pari Passu*) to Clause 19.11 (*No default*) and Clause 19.13 (*Financial statements/condition*).

"**Requirement of Law**" means, as to any Person, any law, ordinance, rule, regulation or requirement of any Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"**Restricted Distribution**" means any cash dividend or other cash distribution with respect to any Capital Stock of CEMEX Parent, or any cash payment, including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of such Capital Stock, or on account of any return of capital to CEMEX Parent's stockholders.

"**Restricted Payments**" has the meaning given to that term in Clause 21.17 (*Restricted Payments*).

"**Restricted Subsidiary**" means at any time, any of:

(a) CEMEX México, S.A. de C.V.;

(b) Empresas Tolteca de México, S.A. de C.V.;

(c) any Trademark Company;

(d) any Material Subsidiary of CEMEX Parent that, as of the date hereof, (i) is incorporated or organised in Mexico, (ii) has its principal place of business in Mexico or (iii) conducts a majority of its business or holds a majority of its assets in Mexico; and

any Subsidiary of CEMEX Parent that at such time owns or operates any portion, beyond a *de minimis* amount, of the assets owned or operated as of the date hereof by the Persons described in clauses (a) through (d).

"**Revaluation Date**" means each of the following: (a) in connection with the making of any Loan, each Quotation Date relating to that Loan; (b) the date of on which any prepayment is made pursuant to Clause 8.6 (*Mandatory prepayment*) and (c) such additional dates as the Agent or the relevant Lender shall deem necessary.

"**Rollover Loan**" means one or more Facility B Loans:

(a) made or to be made on the same day that a maturing Facility B Loan is due to be repaid;

(b) the aggregate amount of which is equal to or less than the maturing Facility B Loan;

(c) in the same currency as the maturing Facility B Loan (unless it arose as a result of the operation of Clause 6.2 (*Unavailability of a currency*)); and

(d) made or to be made for the purpose of refinancing a maturing Facility B Loan.

"**Screen Rate**" means:

(a) in relation to LIBOR, the British Bankers' Association Interest Settlement Rate for the relevant currency and period; and

(b) in relation to EURIBOR, the percentage rate per annum determined by the Banking Federation of the European Union for the relevant period,

displayed on the appropriate page of the Reuters screen. If the agreed page is replaced or service ceases to be available, the Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower and the Lenders.

"**SEC**" means the U.S. Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

"**Selection Notice**" means a notice substantially in the form set out in Part II of Schedule 3 (*Selection Notice*) given in accordance with Clause 10 (*Interest Periods*) in relation to Facility A.

"**Seller**" means CEMEX Parent or any Subsidiary of CEMEX Parent or other Affiliate of CEMEX Parent (other than a Subsidiary or Affiliate that is a Special Purpose Vehicle) which is a party to a Receivables Document.

"**Special Purpose Vehicle**" means a trust, partnership or other special purpose Person established by any member of the Group to implement a Qualified Receivables Transaction.

"**Specified Time**" means a time determined in accordance with Schedule 8 (*Timetables*).

"**Subsidiary**" means with respect to any Person, any corporation, partnership, joint venture, limited liability company, trust, estate or other entity of which (or in which) more than 50% of:

(a) in the case of a corporation, the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency not in the control of such Person);

(b) in the case of a limited liability company, partnership or joint venture, the interest in the capital or profits of such limited liability company, partnership or joint venture; or

(c) in the case of a trust or estate, the beneficial interest in such trust or estate, is at the time directly or indirectly owned or controlled by (i) such Person, (ii) such Person and one or more of its other Subsidiaries or (iii) one or more of such Person's other Subsidiaries. For purposes of determining whether a trust formed in connection with a Qualified Receivables Transaction is a Subsidiary, notes, trust certificates, undivided interests, partnership interests or other interests of the type described in clause (a) of the definition of Receivables Program Obligations shall be counted as beneficial interests in such trust.

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

"**TARGET Day**" means any day on which TARGET2 is open for the settlement of payments in euro.

"**Tax**" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Taxes Act**" means the Income and Corporation Taxes Act 1988.

"**Temporary Investments**" means, at any date, all amounts that would, in conformity with Mexican FRS consistently applied, be set forth opposite the captions "cash and cash equivalents" ("*efectivo y equivalentes de efectivo*") and/or "temporary investments" ("*inversiones temporales*") on the consolidated balance sheet of CEMEX Parent at such date.

"**Tender Offer**" means any offer made by CEMEX Parent or any of its Subsidiaries to acquire at least 50.1% of the issued and outstanding shares of a target company or a controlling interest in such target company.

"**Termination Date**" means:

(a) in relation to Facility A, the day which is 24 Months after 22 June 2006;

(b) in relation to Facility B, the day which is 48 Months after 22 June 2006,

or, in each case, if such day would not be a Business Day, the first succeeding Business Day, unless such day would fall into the next month, in which case the immediately preceding Business Day.

"**Total Commitments**" means the aggregate of the Total Facility A Commitments, the Total Facility B Commitments.

"**Total Facility A Commitments**" means the aggregate of the Facility A Commitments, being US$350,000,000 at the date of this Agreement.

"**Total Facility B Commitments**" means the aggregate of the Facility B Commitments, being US$350,000,000 at the date of this Agreement.

"**Total Borrowings**" means, without duplication, in respect of any Person, the amount of all Debt of such Person plus the aggregate amount of all payment obligations, contingent or otherwise, of such Person in respect of Off-Balance-Sheet Transactions entered into by such Person but excluding (i) any intra-group debt, the payment of which is subordinated to third party debt and (ii) any amounts which are made available in a form which satisfies the Spanish law requirements of *préstamos participativos*.

"**Total Net Worth of CEMEX Spain**" means, at any date, the shareholders' equity of CEMEX Spain and its Subsidiaries (including minority interests) at such date, in accordance with Spanish GAAP.

"**Trademark Companies**" means collectively, CTW and any other Person at any time conducting business or servicing a purpose similar to the business and purposes of CTW as of the date hereof, with respect to Intellectual Property owned or held under license by CTW as of the date hereof, and any of their Successors or transferees in the event of a merger or consolidation of any such Person or the transfer, conveyance, sale, lease or other disposition of all or substantially all of its properties or assets in accordance with Clause 21.15 (*Consolidations and mergers*).

"**Transfer Certificate**" means a certificate substantially in the form set out in Schedule 5 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Borrower.

"**Transfer Date**" means, in relation to a transfer, the later of:

(a) the proposed Transfer Date specified in the Transfer Certificate; and

(b) the date on which the Agent executes the Transfer Certificate.

"**Unpaid Sum**" means any sum due and payable but unpaid by an Obligor under the Finance Documents.

"**U.S.**", "**US**" or "**United States**" means the United States of America.

"**Utilisation**" means a utilisation of a Facility.

"**Utilisation Date**" means the date of a Utilisation, being the date on which the relevant Loan is to be made.

"**Utilisation Request**" means a notice substantially in the form set out in Part I of Schedule 3 (*Utilisation Request*).

"**Value of Debt Currency Derivatives**" means, on any given date, the aggregate mark-to-market value of Debt Currency Derivatives, expressed as a positive number (if, on a mark-to-market basis, such aggregate amount reflects a net amount owed to CEMEX Parent and its Subsidiaries) or as a negative number (if, on a mark-to-market basis, such aggregate amount reflects a net amount owed by CEMEX Parent and its Subsidiaries). For the avoidance of doubt, Value of Debt Currency Derivatives is net of any amounts pledged as cash collateral.

"**VAT**' means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

1.2 **Construction**

(a) Unless a contrary indication appears any reference in this Agreement to:

(i) the "**Agent**", the "**Arranger**", any "**Finance Party**", any "**Lender**", any "**Obligor**" or any "**Party**" shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

(ii) a document in "**agreed form**" is a document which is initialled by or on behalf of the Borrower and the Agent or the Arranger;

(iii) "**assets**" includes present and future properties, revenues and rights of every description;

(iv) the "**European interbank market**" means the interbank market for euro operating in Participating Member States;

(v) a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended or novated;

(vi) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

(vii) a "**participation**" of a Lender in a Loan, means the amount of such Loan which such Lender has made or is to make available and thereafter that part of the Loan which is owed to such Lender;

(viii) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, with which persons who are subject thereto are accustomed to comply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

(ix) the "**winding-up**", "**dissolution**", "**administration**" or "**reorganisation**" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings (such as, in Spain, *suspensión de pagos*, *quiebra, concurso* or any other *situación concursal* and, in The Netherlands *faillissement and surséance van betaling*) under the laws and regulations of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, bankruptcy, dissolution, administration, arrangement, adjustment, protection or relief of debtors;

(x) a provision of law is a reference to that provision as amended or re-enacted without material modification;

(xi) a time of day is a reference to New York City time; and

(xii) a reference to a clause, paragraph or schedule, unless the context otherwise requires, is a reference to a clause, a paragraph of or a schedule to this Agreement.

(b) Section, Clause and Schedule headings are for ease of reference only.

(c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

(d) A Default (including an Event of Default) is "**continuing**" if it has not been remedied or waived but, for the avoidance of doubt, no breach of any of the financial covenants set out in Clause 21.13 (*Financial condition covenants*) shall be capable of being or be deemed to be remedied by virtue of the fact that upon any subsequent testing of such covenants pursuant to Clause 21.13 (*Financial condition covenants*), there is no breach thereof.

(e) As used herein and in the other Finance Documents and any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms relating to any member of the Group not defined in Clause 1.1 (*Definitions*) and accounting terms partly defined in Clause 1.1 (*Definitions*), to the extent not defined, shall have the respective meanings given to them under the Applicable GAAP, (ii) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (iii) the word "incur" shall be construed to mean incur, create, issue, assume or otherwise become liable in

respect of (and the words "incurred" and "incurrence" shall have correlative meanings), (iv) 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, Capital Stock, securities, revenues, accounts, leasehold interests and rights, and (v) reference to agreements or other Contractual Obligations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations as amended, supplemented, restated or otherwise modified form time to time.

(f) In this Agreement, whenever *pro forma* effect is to be given to any Material Acquisition or Material Disposition by any member of the Group for purposes of including or excluding (as the case may be) the amount of income or earnings or other amounts relating thereto in any calculation under the definition of EBITDA, the *pro forma* calculations will be determined in good faith by a responsible financial or accounting officer of the Borrower; **provided that** such *pro forma* calculations shall not include any *pro forma* expense or cost reductions except to the extent calculated on a basis consistent with Regulation S-X under the U.S. Securities Act of 1933, as amended.

(g) Calculations with respect to the Consolidated Leverage Ratio and Adjusted Consolidated Net Tangible Assets and the defined terms used in such calculations, when made in relation to dates other than the last day of a fiscal quarter, shall be made by CEMEX Parent acting in good faith by reference to (i) the most recently available consolidated financial statements of CEMEX Parent and its Subsidiaries as of such date and (ii) events, conditions and circumstances occurring or existing subsequent to such financial statements.

1.3 **Currency Symbols and Definitions**

"**£**" and "**sterling**" denote the lawful currency of the United Kingdom, "**€**"**,** "**EUR**" and "**euro**" mean the single currency unit of the Participating Member States, "**JPY**" and "**yen**" denote the lawful currency of Japan, "**Peso**" denotes the lawful currency of Mexico and "**US$**", "**$**" and "**dollars**" denote the lawful currency of the United States of America.

1.4 **Third party rights**

(a) Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or enjoy the benefit of any term of any Finance Document.

(b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary any Finance Document at any time.

SECTION 2
THE FACILITIES

2. THE FACILITIES

2.1 The Facilities

Subject to the terms and conditions of this Agreement, the Lenders make available to the Borrower:

(a) a two year multicurrency term loan facility in an aggregate amount equal to the Total Facility A Commitments; and

(b) a four year multicurrency revolving loan facility in an aggregate amount equal to the Total Facility B Commitments.

2.2 Finance Parties' rights and obligations

(a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

(b) Except as otherwise stated in the Finance Documents, the rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt.

(c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

3. PURPOSE

3.1 Purpose

The Borrower shall apply all amounts borrowed by it under each Facility towards:

(a) repayment of all amounts due and payable under the Existing NSH Facility Agreement on the First Utilisation Date;

(b) repayment of Debt of the Borrower; and

(c) its general corporate purposes.

3.2 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. CONDITIONS OF UTILISATION

4.1 Initial conditions precedent

The Borrower may not deliver the first Utilisation Request unless the Agent has received all of the documents and other evidence listed in Part I of Schedule 2 (Conditions *Precedent to Initial Utilisation*). The Agent shall notify the Borrower and the Lenders promptly upon being so satisfied.

4.2 **Further conditions precedent**

The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) if on the date of the Utilisation Request and on the proposed Utilisation Date:

(a) in the case of a Rollover Loan, no Event of Default is continuing or would result from the proposed Loan and, in the case of any other Utilisation, no Default is continuing or would result from the proposed Utilisation; and

(b) the Repeating Representations which are or which are deemed to be made or repeated by each Obligor on such date pursuant to Clause 19.27 (*Repetition*) are true in all material respects.

The Lenders will only be obliged to comply with Clause 28.9 (*Change of currency*) if, on the first day of an Interest Period, no Default is continuing or would result from the change of currency and the Repeating Representations to be made by each Obligor are true in all material respects.

4.3 **Conditions relating to Optional Currencies**

(a) A currency will constitute an Optional Currency in relation to a Utilisation if:

(i) it is readily available in the amount required and freely convertible into the Base Currency in the Relevant Interbank Market on the Quotation Day and the Utilisation Date for that Utilisation; and

(ii) it is sterling, euro or yen or has been approved by the Agent (acting on the instructions of all the Lenders) on or prior to receipt by the Agent of the relevant Utilisation Request for that Utilisation.

(b) The Lenders will only be obliged to comply with Clause 28.9 (*Change of currency*) if, on the first day of an Interest Period, no Default is continuing or would result from the change of currency and the Repeating Representations to be made by each Obligor are true in all material respects.

(c) If the Agent has received a written request from the Borrower for a currency to be approved under paragraph (a)(ii) above, the Agent will confirm to the Borrower by the Specified Time:

(i) whether or not the Lenders have granted their approval; and

(ii) if approval has been granted, the minimum amount (and, if required, integral multiples) for any subsequent Utilisation in that currency.

4.4 **Maximum number of Loans**

The Borrower may not deliver a Utilisation Request if as a result of the proposed Utilisation:

(a) 3 or more Facility A Loans would be outstanding; or

(b) 8 or more Facility B Loans would be outstanding.

4.5 **Promissory Notes**

Each Loan made by each Lender shall be evidenced by a Facility A Note or Facility B Note, as the case may be, executed by the Borrower and each Guarantor, as "*avalista*," and representing the obligation of the Borrower to pay to such Lender the unpaid principal amount of such Loan, plus interest thereon as provided in Clause 9 (*Interest*). No Lender shall, in connection with the enforcement of any Note, be required to introduce into evidence or prove the existence of this Agreement or the other Finance Documents (other than such Note) or the making of Loans. In addition, the Borrower and each Guarantor shall, from time to time at its expense, execute and/or deliver to each Lender such amendments to the Notes, or replacement Notes, that may, in the judgment of such Lender, be necessary and desirable in order to ensure that the Notes duly reflect the terms of this Agreement. In addition, and without limiting the foregoing, in the event that (i) any Interest Period of a different duration from the prior Interest Period shall be selected with respect to any Facility pursuant to Clause 10 (*Interest Periods*) or (ii) the Termination Date of any Facility shall be extended for any reason or (iii) any Lender assigns any of its rights and benefits in respect of any Utilisation or transfers by novation any of its rights, benefits and obligations in respect of any Utilisation pursuant to Clause 23 (*Changes to the Lenders*), the Borrower and each Guarantor shall, at its expense, execute and deliver to each Lender under such Facility a replacement Note, which shall be subscribed in the same manner and on the same terms and conditions as the Note theretofore held by such Lender, and shall be delivered to each such Lender no later than date on which any such change shall become effective.

SECTION 3
UTILISATION

5. UTILISATION

5.1 Delivery of a Utilisation Request

The Borrower may utilise a Facility by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time.

5.2 Completion of a Utilisation Request

(a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

(i) it identifies the Facility to be utilised;

(ii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;

(iii) the currency and amount of the Loan complies with Clause 5.3 (*Currency and amount*); and

(iv) the proposed Interest Period complies with Clause 10 (*Interest Periods*).

(b) Only one Loan may be requested in each Utilisation Request.

5.3 Currency and amount

(a) The currency specified in a Utilisation Request must be the Base Currency or an Optional Currency.

(b) Unless the Agent otherwise agrees, the amount of the proposed Utilisation must be an amount whose Base Currency Amount is not more than the Available Facility (adjusted, where applicable, to take account of any additional Utilisations which are scheduled to take place on or before the relevant Utilisation Date) and which is:

(i) if the currency selected is the Base Currency, a minimum of US$10,000,000 or, if less, the relevant Available Facility; and, if more, an integral multiple of US$1,000,000 or

(ii) if the currency selected is sterling, euro or yen, a minimum of the equivalent in the relevant Optional Currency of US$10,000,000 (calculated at the Agent's Spot Rate of Exchange) or, if less, the relevant Available Facility and, if more, an integral multiple of US$1,000,000; or

(iii) if the currency selected is an Optional Currency other than sterling, euro or yen, the minimum amount specified by the Agent pursuant to paragraph (c)(ii) of Clause 4.3 (*Conditions relating to Optional Currencies*) or, if less, the relevant Available Facility.

5.4 **Lenders' participation**

(a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.

(b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the relevant Available Facility immediately prior to making the Loan.

(c) The Agent shall determine the Base Currency Amount of each Loan which is to be made in an Optional Currency and shall notify each Lender of the amount, currency and the Base Currency Amount of each Loan and the amount of its participation in that Loan, in each case by the Specified Time.

6. OPTIONAL CURRENCIES

6.1 **Selection of currency**

The Borrower shall select the currency of each Loan in a Utilisation Request.

6.2 **Unavailability of a currency**

If before the Specified Time on any Quotation Day:

(a) a Lender notifies the Agent that the Optional Currency requested is not readily available to it in the amount required, and provides in writing an objectively justified reason therefor; or

(b) a Lender notifies the Agent that compliance with its obligation to participate in a Loan in the proposed Optional Currency would contravene a law or regulation applicable to it,

the Agent will give notice to the Borrower to that effect by the Specified Time on that day. In this event, any Lender that gives notice pursuant to this Clause 6.2 will be required to participate in the Loan in the Base Currency (in an amount equal to that Lender's proportion of the Base Currency Amount, or in respect of a Rollover Loan, an amount equal to that Lender's proportion of the Base Currency Amount of the Rollover Loan that is due to be made) and its participation will be treated as a separate Loan denominated in the Base Currency during that Interest Period.

6.3 **Agent's calculations**

Each Lender's participation in a Loan will be determined in accordance with paragraph (b) of Clause 5.4 (*Lenders' participation*).

SECTION 4
REPAYMENT, PREPAYMENT AND CANCELLATION

7. REPAYMENT

7.1 Repayment of Facility A Loan

The Borrower shall repay the Facility A Loans in full on the Termination Date.

7.2 Repayment of Facility B Loans

The Borrower shall repay each Facility B Loan on the last day of the Interest Period relating to such Loan and, in any event, in full on the Termination Date.

8. PREPAYMENT AND CANCELLATION

8.1 Illegality of a Lender

If, at any time, it is or will become unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Utilisation:

(a) that Lender shall promptly notify the Agent upon becoming aware of that event and in any event at a time which permits the Borrower to repay that Lender's participation on the date such repayment is required to be made;

(b) upon the Agent notifying the Borrower, the Commitment of that Lender will be immediately cancelled; and

(c) the Borrower shall on the last day of the Interest Period for each Loan occurring after the Agent has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) repay that Lender's participation in the Loans together with accrued interest on and all other amounts owing to that Lender under the Finance Documents.

8.2 Voluntary cancellation

The Borrower may if it gives the Agent not less than three Business Days' (or such shorter period as the Majority Lenders in respect of the Facility B to which such cancellation relates may agree) prior notice, cancel the whole or any part (being a minimum amount of US$10,000,000 and, if more, an integral multiple of US$1,000,000) of Facility B. Any cancellation under this Clause 8.2 shall reduce rateably the Commitments of the Lenders under Facility B.

8.3 Automatic cancellation

At the close of business on the last day of the Availability Period in respect of each Facility, the Available Commitment of each Lender under such Facility shall be (if it has not already been) cancelled and reduced to zero.

8.4 Voluntary prepayment of Loans

The Borrower may, if it gives the Agent not less than three Business Days' (or such shorter period as the Majority Lenders in respect of the relevant Facility may agree) prior notice, prepay the whole or any part of any Loan (but, if in part, being an amount that reduces the Base Currency Amount of that Loan by a minimum amount of US$10,000,000 and, if more, an integral multiple of US$1,000,000).

8.5 **Right of repayment and cancellation in relation to a single Lender**

(a) If:

(i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (c) of Clause 13.2 (*Tax gross-up*) solely as a result of the application of a withholding tax rate higher than the lowest withholding tax rate applicable in the relevant jurisdiction; or

(ii) any Lender claims indemnification from an Obligor under Clause 13.3 (*Tax indemnity*) or Clause 14.1 (*Increased costs*),

the Borrower may, whilst the circumstance giving rise to the requirement or indemnification continues, give the Agent notice of cancellation of the Commitment of that Lender and its intention to procure the repayment of that Lender's participation in the Loans.

(b) On receipt of a notice referred to in paragraph (a) above, the relevant Commitment of that Lender shall immediately be reduced to zero.

(c) On the last day of each Interest Period which ends after the Borrower has given notice under paragraph (a) above (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay that Lender's participation in the Loans to which such Interest Period relates.

8.6 **Mandatory prepayment**

If on any date the Agent notifies the Borrower that the Base Currency Amount in relation to Facility B (determined as of the most recent Revaluation Date) shall exceed 103% of the Total Commitments, the Borrower shall as soon as practicable, but in any event no later than five Business Days after receipt of such notice, prepay the outstanding principal amount of any Loans owing by the Borrower in an aggregate amount sufficient to reduce such sum to an amount not to exceed 100% of the Total Facility B Commitments on such date, together with any interest and other amounts accrued to the date of such prepayment on the aggregate principal amount of the Loan(s) prepaid. The Agent shall give prompt notice of any prepayment required under this Clause 8.6 to the Borrower, and shall provide prompt notice to the Borrower of any such notice of mandatory prepayment the Agent receives from any Lender. Any such prepayment shall be allocated at the Lender's discretion.

8.7 **Restrictions**

(a) Any notice of cancellation or prepayment given by any Party under this Clause 8 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

(b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.

(c) The Borrower may not reborrow any part of Facility A which is prepaid.

(d) Unless a contrary indication appears in the Agreement, any part of Facility B which is prepaid may be re-borrowed in accordance with the terms of this Agreement.

(e) The Borrower shall not repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

(f) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

(g) If the Agent receives a notice under this Clause 8 it shall promptly forward a copy of that notice to either the Borrower or the affected Lenders, as appropriate.

SECTION 5
COSTS OF UTILISATION

9. INTEREST

9.1 Calculation of interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

(a) Margin;

(b) LIBOR or, in relation to any Loan in euro, EURIBOR; and

(c) Mandatory Cost, if any.

9.2 Payment of interest

On the last day of each Interest Period relating to a Loan, the Borrower shall pay accrued interest on the Loan to which that Interest Period relates (and, if the Interest Period is longer than six Months, on the dates falling at six Monthly intervals after the first day of that Interest Period).

9.3 Default interest

(a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is two per cent higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration of one Month. Any interest accruing under this Clause 9.3 shall be immediately payable by the Obligor on demand by the Agent.

(b) If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:

(i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and

(ii) the rate of interest applying to the overdue amount during that first Interest Period shall be two per cent. higher than the rate which would have applied if the overdue amount had not become due.

(c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

9.4 Notification of rates of interest

The Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.

10. INTERESTPERIODS

10.1 Selection of Interest Periods

(a) The Borrower may select an Interest Period for a Loan in the Utilisation Request for that Loan or (if the Loan is a Facility A Loan and has already been borrowed) in a Selection Notice.

(b) Each Selection Notice is irrevocable and must be delivered to the Agent by the Borrower not later than the Specified Time.

(c) If the Borrower fails to deliver a Selection Notice to the Agent in accordance with paragraph (b) above, the relevant Interest Period will be one Month.

(d) Subject to this Clause 10, the Borrower may select an Interest Period of one, two, three or six Months, or any other period agreed between the Borrower and the Agent (acting on the instructions of all the Lenders participating in the relevant Facility).

(e) An Interest Period for a Loan shall not extend beyond the Termination Date applicable to its Facility.

(f) Each Interest Period for a Facility A Loan shall start on the Utilisation Date or (if a Loan has already been made) on the last day of its preceding Interest Period.

(g) A Facility B Loan has one Interest Period only.

10.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

10.3 Consolidation and division of Facility A Loans

(a) Subject to paragraph (b) below, if two or more Interest Periods relate to Facility A Loans:

(i) in the same currency;

(ii) of the same period; and

(iii) ending on the same date,

those Facility A Loans will, unless the Borrower specifies to the contrary in the Selection Notice for the next Interest Period, be consolidated into, and be treated as, a single Facility A Loan on the last day of the Interest Period.

(b) Subject to Clause 4.4 (*Maximum number of Loans*), and Clause 5.3 (*Currency and amount*) if the Borrower requests in a Selection Notice that a Facility A Loan be divided into two or more Facility A Loans, that Facility A Loan will, on the last day of its Interest Period, be so divided into the Base Currency Amounts specified in that Selection Notice, being an aggregate Base Currency Amount equal to the Base Currency Amount of the Facility A Loan immediately before its division.

11. CHANGES TO THE CALCULATION OF INTEREST

11.1 Absence of quotations

Subject to Clause 11.2 (*Market disruption*), if LIBOR or, if applicable EURIBOR, is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by the Specified Time on the Quotation Day, the applicable LIBOR or EURIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

11.2 Market disruption

(a) If a Market Disruption Event occurs in relation to a Loan for any Interest Period, then the rate of interest on each Lender's share of that Loan for the Interest Period shall be the rate per annum which is the sum of:

(i) the Margin;

(ii) the rate notified to the Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in that Loan from whatever source it may reasonably select; and

(iii) the Mandatory Cost, if any, applicable to that Lender's participation in that Loan.

(b) In this Agreement "**Market Disruption Event**" means:

(i) at or about noon on the Quotation Day for the relevant Interest Period the Screen Rate not being available and none or only one of the Reference Banks supplying a rate to the Agent to determine LIBOR or, if applicable, EURIBOR for the relevant currency and Interest Period; or

(ii) before close of business in New York on the Quotation Day for the relevant Interest Period, the Agent receiving notifications from a Lender or Lenders (in either case whose participations in a Loan exceed 50 per cent. of that Loan) that the cost to it or them of obtaining matching deposits in the Relevant Interbank Market would be in excess of LIBOR or, if applicable, EURIBOR.

11.3 Alternative basis of interest or funding

(a) If a Market Disruption Event occurs and the Agent or the Borrower so requires, the Agent and the Borrower shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest in respect of the relevant Loan.

(b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders participating in the relevant Loan and the Borrower, be binding on all Parties.

11.4 **Break Costs**

(a) The Borrower shall, within three Business Days of demand by a Lender, pay to that Lender its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by the Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.

(b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming in reasonable detail the amount of its Break Costs for any Interest Period in which they accrue.

12. **FEES**

12.1 **Arrangement fee**

The Borrower shall pay to the Arranger an arrangement fee in the amount and at the times agreed in the Syndication and Fees Letter.

12.2 **Agency fee**

The Borrower shall pay to (or procure payment to) the Agent (for its own account) an agency fee in the amount and at the times agreed in the Syndication and Fees Letter.

12.3 **Commitment fee**

(a) The Borrower shall pay to the Agent (for the account of each Lender under Facility B) a commitment fee computed at the rate of 30 per cent. of the applicable Margin from time to time in relation to Facility B on that Lender's Average Available Commitment (as defined below) for each successive period of three Months during the Availability Period and for any shorter period of availability ending by the cancellation or termination of Facility B.

(b) The accrued commitment fees are payable on the last day of each successive period of three Months which ends during the Availability Period, on the last day of the Availability Period and, if cancelled in full, on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.

(c) In this Clause 12.3:

"**Average Available Commitment**" means, in respect of each Lender during the relevant period, the Aggregate Available Commitment divided by the number of actual days elapsed during that Availability Period; and

"**Aggregate Available Commitment**" means, in respect of each Lender during any Availability Period, the sum of such Lender's Available Commitment in relation to Facility B at the start of each day during that period.

SECTION 6
ADDITIONAL PAYMENT OBLIGATIONS

13. TAX GROSS UP AND INDEMNITIES

13.1 Definitions

(a) In this Clause 13:

"**Protected Party**" means a Finance Party which is or will be subject to any liability or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

"**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment made under a Finance Document.

"**Tax Payment**" means either the increase in a payment made by an Obligor to a Finance Party under Clause 13.2 (*Tax gross-up*) or a payment under Clause 13.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 13 a reference to "determines" or "determined" means a determination made in the absolute good faith discretion of the person making the determination.

13.2 Tax gross-up

(a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law or regulation.

(b) The Borrower or a Lender shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. If the Agent receives such notification from a Lender it shall notify the Borrower and that Obligor.

(c) If a Tax Deduction is required by law or regulation to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due and payable if no Tax Deduction had been required.

(d) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law or regulation.

(e) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Agent for the Finance Party entitled to the payment an original receipt (or certified copy thereof) or if unavailable such other evidence as is reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

13.3 **Tax indemnity**

(a) The Borrower shall (within five Business Days of demand by the Agent) pay to a Protected Party an amount equal to the amount of any Tax assessed on that Protected Party (together with any interest, costs or expenses payable, directly or indirectly, or incurred in connection therewith) in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

(b) Paragraph (a) of this Clause 13.3 shall not apply with respect to any Tax assessed on a Finance Party:

(i) under the laws and regulations of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or

(ii) under the laws and regulations of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income (but not on any sum deemed to be received or receivable in respect of any payment made under Clause 13.2 (*Tax gross-up*)) of that Finance Party.

(c) A Protected Party making, or intending to make a claim pursuant to paragraph (a) of this Clause 13.3 shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Borrower.

(d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 13.3, notify the Agent.

13.4 **Tax Exemptions**

A Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower is located, or under any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to the Borrower (with a copy to the Agent), upon the Borrower's reasonable request, such properly completed and executed documentation as will permit such payments to be made without withholding or at a reduced withholding tax rate; *provided* that such Lender is legally entitled to complete, execute and deliver such documentation and in such Lender's reasonable judgment such completion, execution or submission would not cause such Lender or its lending office(s) to suffer any economic, legal or regulatory disadvantage.

13.5 **Stamp taxes**

The Borrower shall pay and, within five Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document except for any such tax payable in connection with the entry into of a Transfer Certificate.

13.6 **Value added tax**

(a) All consideration expressed to be payable under a Finance Document by any Party to a Finance Party shall be deemed to be exclusive of any VAT. If VAT is chargeable on any supply made by any Finance Party to any Party in connection with a Finance Document, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the VAT and such Finance Party shall promptly provide an appropriate VAT invoice to such Party.

(b) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify that Finance Party against all VAT incurred by the Finance Party in respect of the costs or expenses to the extent that the Finance Party reasonably determines that it is not entitled to credit or repayment of the VAT.

14. INCREASED COSTS

14.1 **Increased costs**

(a) Subject to Clause 14.2 (*Increased Cost Claims*) and Clause 14.3 (*Exceptions*) the Borrower shall, within three Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:

(i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or

(ii) compliance with any law or regulation,

in each case made after the date of this Agreement.

(b) In this Agreement "**Increased Costs**" means, without duplication:

(i) a reduction in the rate of return from a Facility or on a Finance Party's (or its Affiliate's) overall capital;

(ii) an additional or increased cost; or

(iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitments or funding or performing its obligations under any Finance Document.

14.2 **Increased cost claims**

(a) A Finance Party intending to make a claim pursuant to Clause 14.1 (*Increased costs*) shall notify the Agent of the event giving rise to the claim and a calculation evidencing in reasonable detail the amount of such Increased Costs to be claimed by such Finance Party, following which the Agent shall promptly notify the Borrower and provide the Borrower with such calculations.

(b) Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

14.3 **Exceptions**

(a) Clause 14.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

(i) attributable to a Tax Deduction required by law or regulation to be made by an Obligor;

(ii) compensated for by Clause 13.3 (*Tax indemnity*) (or would have been compensated for under Clause 13.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 13.3 (*Tax indemnity*) applied);

(iii) compensated for by the payment of the Mandatory Cost; or

(iv) attributable to the breach by the relevant Finance Party or its Affiliates of any law or regulation.

(b) In this Clause 14.3, a reference to a "**Tax Deduction**" has the same meaning given to the term in Clause 13.1 (*Definitions*).

15. **OTHER INDEMNITIES**

15.1 **Currency indemnity**

(a) If any sum due from an Obligor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

(i) making or filing a claim or proof against that Obligor; or

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

15.2 **Other indemnities**

Each Obligor shall, within five Business Days of demand, indemnify each Finance Party against any cost, loss or liability not otherwise compensated under the provisions of this Agreement and excluding any lost profits, consequential or indirect damages (other than interest or default interest) incurred by that Finance Party as a result of its Commitment or the making of any Loan under the Finance Documents as a result of:

(a) the occurrence of any Event of Default;

(b) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 27 (*Sharing among the Finance Parties*);

(c) funding, or making arrangements to fund, its participation in a Loan requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or

(d) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower.

15.3 **Indemnity to the Agent**

The Borrower shall (or shall procure that another Obligor will) promptly indemnify the Agent against any cost, loss or liability directly related to this Agreement incurred by the Agent (acting reasonably and otherwise than by reason of the Agent's gross negligence or wilful misconduct) as a result of:

(a) investigating any event which it reasonably believes (acting prudently and, if possible, following consultation with the Borrower) is a Default; or

(b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

16. MITIGATION BY THE LENDERS

16.1 **Mitigation**

(a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise after the date of this Agreement and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 8.1 (*Illegality of a Lender*), Clause 13 (*Tax gross-up and indemnities*), Clause 14 (*Increased costs*) or paragraph 3 of Schedule 4 (*Mandatory Cost Formulae*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

(b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

16.2 **Limitation of liability**

(a) The Borrower shall (or shall procure that another Obligor will) indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 16.1 (*Mitigation*).

(b) A Finance Party is not obliged to take any steps under Clause 16.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

17. COSTS AND EXPENSES

17.1 Transaction expenses

The Borrower shall promptly on demand pay the Agent and the Arrangers the amount of all documented costs and expenses (including reasonable legal fees) reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution and syndication of:

(a) this Agreement and any other documents referred to in this Agreement; and

(b) any other Finance Documents executed after the date of this Agreement.

17.2 Amendment costs

If (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 28.9 (*Change of currency*), the Borrower shall, within three Business Days of demand, reimburse the Agent, the Arranger and each Lender for the amount of all costs and expenses (including reasonable legal fees, but in this case, only the legal fees of one law firm in each relevant jurisdiction acting on behalf of all the Lenders) reasonably incurred by such parties in responding to, evaluating, negotiating or complying with that request or requirement.

17.3 Enforcement costs

The Borrower shall, within three Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

SECTION 7
GUARANTEE

18. GUARANTEE AND INDEMNITY

18.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

(a) guarantees to each Finance Party punctual performance by the Borrower of all the Borrower's obligations under the Finance Documents;

(b) undertakes with each Finance Party that whenever the Borrower does not pay any amount when due under or in connection with any Finance Document, it shall immediately on demand pay that amount as if it was the principal obligor; and

(c) indemnifies each Finance Party immediately on demand against any cost, loss or liability suffered by that Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that Finance Party would otherwise have been entitled to recover.

18.2 Continuing guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by the Borrower under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

18.3 Reinstatement

If any payment by the Borrower or any discharge given by a Finance Party (whether in respect of the obligations of the Borrower or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

(a) the liability of the Borrower shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

(b) each Finance Party shall be entitled to recover the value or amount of that security or payment from the Borrower, as if the payment, discharge, avoidance or reduction had not occurred.

18.4 Waiver of defences

The obligations of each Guarantor under this Clause 18 will not be affected by an act, omission, matter or thing which, but for this Clause 18, would reduce, release or prejudice any of its obligations under this Clause 18 (without limitation and whether or not known to it or any Finance Party) including:

(a) any time, waiver or consent granted to, or composition with, the Borrower or other person;

(b) the release of the Borrower or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower or any other person;

(e) any amendment (however fundamental) or replacement of a Finance Document or any other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or

(g) any insolvency or similar proceedings.

18.5 **Immediate recourse**

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from a Guarantor under this Clause 18 and waives any similar or additional rights that may be granted by applicable law. This waiver applies irrespective of any law or regulation or any provision of a Finance Document to the contrary.

Each Guarantor also waives any right to be sued jointly with other Guarantors and agrees to share liability resulting from any claim against it.

18.6 **Appropriations**

Until all amounts which may be or become payable by the Borrower under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

(a) refrain from applying or enforcing any other monies, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any monies received from a Guarantor or on account of such Guarantor's liability under this Clause 18,

provided that the operation of this Clause 18.6 shall not be deemed to create any Liens.

18.7 **Deferral of Guarantors' rights**

Until all amounts which may be or become payable by the Borrower under or in connection with the Finance Documents have been irrevocably paid in full and unless the Agent (acting on the instructions of the Majority Lenders) otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents:

(a) to be indemnified by the Borrower;

(b) to claim any contribution from any other guarantor of the Borrower's obligations under the Finance Documents; and/or

(c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party.

18.8 **Additional security**

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

18.9 **Limitation of Guarantee**

Notwithstanding any other provision of this Clause 18 (*Guarantee and Indemnity*) any potential future guarantee, indemnity and other obligations of any potential future Dutch guarantor expressed to be assumed in this Clause 18 (*Guarantee and Indemnity*) shall be deemed not to be assumed by such potential future Dutch guarantor to the extent that the same would constitute unlawful financial assistance within the meaning of Article 2:207c or 2:98c of the Dutch Civil Code or any other applicable financial assistance rules under any relevant jurisdiction (the " **Prohibition**") and the provisions of this Agreement and the other Finance Documents shall be construed accordingly. For the avoidance of doubt it is expressly acknowledged that the relevant potential future Dutch guarantor will continue to guarantee all such obligations which, if included, do not constitute a violation of the Prohibition.

SECTION 8
REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

19. REPRESENTATIONS

Each Obligor makes the representations and warranties set out in Clause 19.1 (*Corporate Existence and Power*) to Clause 19.11 (*No default*) (inclusive) to each Finance Party.

Each of the Borrower and CEMEX Parent makes the representations and warranties set out in Clauses 19.12 (*No misleading information*) to Clause 19.16 (*Intellectual property*) (inclusive) to each Finance Party.

CEMEX Parent makes the representations and warranties set out in Clauses 19.17 (*Financial information*) to Clause 23.24 (*Environmental Matters)* (inclusive) to each Finance Party.

Each Guarantor makes the representations and warranties set out in Clause 19.26 (*Mutual Benefits*) to each Finance Party.

19.1 Corporate Existence and Power

(a) Each Obligor is a corporation duly incorporated, validly existing under the laws of its jurisdiction of incorporation and has all requisite corporate power and authority (including all governmental licences, permits and other approvals except for such licences, permits and approvals the absence of which will not have a Material Adverse Effect) to own its assets and carry on its business as now conducted and as proposed to be conducted.

(b) All of the outstanding stock of such Obligor has been validly issued and is fully paid and non-assessable.

(c) The Borrower is in full compliance with the applicable provisions of the FMSA.

19.2 Power and Authority; Enforceable Obligations

(a) The execution, delivery and performance by each Obligor of each Finance Document to which it is or will be a party, and the consummation of the transactions contemplated hereby and thereby, are within such Obligor's corporate powers and have been duly authorised by all necessary corporate action pursuant to the *statuten* or, as the case may be, *estatutos sociales* of such Obligor.

(b) This Agreement and the other Finance Documents to which each Obligor is a party have been duly executed and delivered by such Obligor and constitute legal, valid and binding obligations of such Obligor enforceable in accordance with their respective terms, except as enforceability may be limited by applicable *concurso mercantil*, bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equity principles.

19.3 Compliance with Law and Other Instruments

The execution, delivery and performance of this Agreement and any of the other Finance Documents to which such Obligor is a party and the consummation of the transactions

herein or therein contemplated, and compliance with the terms and provisions hereof and thereof, do not and will not (a) conflict with, or result in a breach or violation of, or constitute a default under, or result in the creation or imposition of any Lien upon the assets of such Obligor pursuant to, any Contractual Obligation of such Obligor or (b) result in any violation of the *statuten* or, as the case may be, *estatutos sociales* of such Obligor or any provision of any Requirement of Law applicable to such Obligor.

19.4 **Consents/Approvals**

No order, permission, consent, approval, licence, authorization, registration or validation of, or notice to or filing with, or exemption by, any Governmental Authority or third party is required to authorise, or is required in connection with, the execution, delivery and performance by such Obligor of this Agreement and the other Finance Documents to which such Obligor is a party or the taking of any action contemplated hereby or by any other Finance Document.

19.5 **Litigation; Material Adverse Effect**

Except as set forth in Schedule 11 (*Litigation*), there is no pending or threatened action, suit, investigation, litigation or proceeding, including any Environmental Action, affecting CEMEX Parent or any of its Subsidiaries before any court, Governmental Authority or arbitrator that (i) would be reasonably likely to have a Material Adverse Effect or (ii) purports to affect the legality, validity or enforceability of any Finance Document or the consummation of the transactions contemplated thereby, and there has been no adverse change in the status, or financial effect on CEMEX Parent or any of its Subsidiaries, of the litigation described in Schedule 11 (*Litigation*).

19.6 **No Immunity**

Each Obligor is subject to civil and commercial law with respect to its obligations under this Agreement and each other Finance Document to which it is a party and the execution, delivery and performance of this Agreement or any such other Finance Document by such Obligor constitute private and commercial acts rather than public or governmental acts. Under the laws of Mexico or The Netherlands (as applicable) neither such Obligor nor any of its property has any immunity from jurisdiction of any court or any legal process (whether through service or notice, attachment prior to judgment or attachment in aid of execution).

19.7 **Governmental Regulations**

Each Obligor is not, and is not controlled by, (a) an "investment company" within the meaning of the United States Investment Company Act of 1940, as amended or (b) a "holding company", or a "subsidiary company" of a "holding company", or an "affiliate" of a "holding company" or of a "subsidiary" of a "holding company", within the meaning of the Public Utility Holding Company Act of 1935, as amended.

19.8 **Direct Obligations: Pari Passu**

(a) This Agreement constitutes a direct, unconditional, unsubordinated and unsecured obligation of such Obligor.

(b) The obligations of such Obligor under this Agreement rank and will rank in priority of payment at least *pari passu* with all other senior unsecured Debt of such Obligor.

19.9 **No Recordation Necessary**

This Agreement is in proper legal form under the laws of Mexico and of The Netherlands for the enforcement thereof against such Obligor under the law of Mexico or, as the case may be, The Netherlands. To ensure the legality, validity, enforceability or admissibility in evidence of this Agreement and each other Finance Document in Mexico and in The Netherlands, it is not necessary that this Agreement or any other Finance Document be filed or recorded with any Governmental Authority in Mexico or any Governmental Authority in The Netherlands or that any stamp or similar tax be paid on or in respect of this Agreement or any other document to be furnished under this Agreement unless such stamp or similar taxes have been paid by the Borrower or the Guarantors; **provided, however, that** in the event any legal proceedings are brought in the courts of Mexico, an official Spanish translation of the documents required in such proceedings, including this Agreement, would have to be approved by the court after the defendant is given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents.

19.10 **Governing law**

In any action or proceeding involving any Finance Party arising out of or relating to any Finance Document in any Mexican or Dutch court or tribunal, the Lenders and the Agent would be entitled to the recognition and effectiveness of the choice of law, submission to jurisdiction and waiver of sovereign immunity provisions of Clause 36 (*Governing Law*), Clause 37.1 (*Jurisdiction of English Courts*) and Clause 38 (*Waiver of Sovereign Immunity*).

19.11 **No default**

No Default or Event of Default has occurred and is continuing.

19.12 **No misleading information**

All material written information supplied by any member of the Group is true, complete and accurate in all material respects as at the date it was given and is not misleading in any material respect.

19.13 **Financial statements/condition**

(a) The financial statements delivered pursuant to Clause 20.1 (*Financial statements*) are complete and correct in all material respects and present fairly (i) the consolidated financial condition of each of CEMEX Parent and its Subsidiaries and CEMEX Spain and its Subsidiaries as at the dates thereof, and the consolidated results of its operations and its consolidated cash flows for the periods then ended (subject, in the case of quarterly financial statements, to normal year end audit adjustments) and (ii) the financial condition of the Borrower and each of the Guarantors other than CEMEX Parent as at the dates thereof, and the results of each of their operations and cash flows for the periods then ended, subject, in the case of quarterly financial statements, to normal year end audit adjustments. All such financial statements, including the related schedules and notes thereto, have been prepared in accordance with Applicable GAAP applied consistently throughout the periods involved.

(b) No member of the Group has any guarantee obligations, contingent liabilities, liabilities for taxes, or any long term leases or unusual forward or long term commitments, including without limitation any interest rate or foreign currency swap or exchange transaction or other obligation in respect of Derivatives Obligations, which is material and is not reflected in the most recent financial statements referred to in paragraph (a) above.

(c) Since 31 December 2004, (i) except as reflected in the financial statements of CEMEX Parent for the financial quarter ended 30 September 2008 and/or as disclosed in the bank presentations made by CEMEX Parent and CEMEX España to Lenders in New York on 13 November 2008 and in Madrid on 14 November 2008, there has been no development or event that has had or would reasonably be expected to have a Material Adverse Effect and (ii) there has been no Disposition by any member of the Group which has had or would reasonably be expected to have a Material Adverse Effect.

19.14 **Full Disclosure**

All information heretofore furnished by the Borrower to the Agent, the Arrangers or any Lender for purposes of or in connection with this Agreement or any transaction contemplated hereby (other than projections and other "forward-looking" information that have been prepared on a reasonable basis and in good faith by the Borrower) is, and all such information hereafter furnished by the Borrower to the Agent, the Arrangers or any Lender will be, true and accurate in all material respects on the date as of which such information is stated or certified and does not omit to state any material fact necessary in order to make the statements contained herein or therein, taken as a whole, not misleading. The Borrower has disclosed to the Lenders in writing any and all facts which may have a Material Adverse Effect.

19.15 **Margin Regulations**

No part of the proceeds of the Loans hereunder will be used, directly or indirectly, for the purpose of purchasing or carrying any "margin stock" within the meaning of Regulation U, or for the purpose of purchasing or carrying or trading in any securities. If requested by any Lender or the Agent, the Borrower will furnish to the Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form U-1 referred to in said Regulation U. No indebtedness being reduced or retired out of the proceeds of the Loans hereunder was or will be incurred for the purpose of purchasing or carrying any margin stock within the meaning of Regulation U or any "margin security" within the meaning of Regulation T. Margin stock within the meaning of Regulation U does not constitute more than 25% of the value of the consolidated assets of CEMEX Parent and its Subsidiaries. Neither the execution and delivery hereof by the Borrower, nor the performance by it of any of the transactions contemplated by this Agreement (including the direct or indirect use of the proceeds of the Loans) will violate or result in a violation of the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or regulations issued pursuant thereto, or Regulation T, U, or X.

19.16 **Intellectual Property**

Each member of the Group owns, or is licensed to use, all Intellectual Property necessary for the conduct of its business as currently conducted free and clear of Liens, conditions, adverse claims or other restrictions. No material claim has been asserted and is pending by any Person challenging or questioning the use of any Intellectual Property or the validity, enforceability or effectiveness of any Intellectual Property owned by any member of the Group, nor does any Obligor know of any valid basis for any such claim. The use of Intellectual Property by each member of the Group does not infringe on the rights of any Person in any material respect.

19.17 **Financial Information.**

The consolidated balance sheet of CEMEX Parent and its Subsidiaries as at December 31, 2004, and the related consolidated statements of income and cash flows of CEMEX Parent and its Subsidiaries for the fiscal year then ended, accompanied by an opinion of KPMG Cardenas Dosal, S.C., independent public accountants, and the consolidated balance sheet of CEMEX Parent and its Subsidiaries as at March 31, 2005, and the related consolidated statements of income and cash flows of CEMEX Parent and its Subsidiaries for the three months then ended, duly certified by the chief financial officer of CEMEX Parent, copies of which have been furnished to the Agent, fairly present, subject, in the case of said balance sheet as at March 31, 2005, and said statements of income and cash flows for the three months then ended, to year-end audit adjustments, the consolidated financial condition of CEMEX Parent and its Subsidiaries as at such dates and the consolidated results of the operations of CEMEX Parent and its Subsidiaries for the periods ended on such dates, all in accordance with Mexican FRS, consistently applied.

19.18 **Liens**

There are no Liens on the property of CEMEX Parent or any of its Subsidiaries other than Permitted Liens.

19.19 **Subsidiaries**

As of 31 March 2005, all Material Subsidiaries of the Borrower are listed in Schedule 12 (*Material Subsidiaries*), without giving effect to the acquisition of RMC Group p.l.c.

19.20 **Ownership of Property and insurance**

(a) Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect, each of CEMEX Parent and its Subsidiaries has title in fee simple to, or a valid leasehold interest in, all its real property, and good title to, or a valid leasehold interest in, all its other property, and none of such property is subject to any Lien except Permitted Liens.

(b) Each Obligor maintains insurance as required by Clause 21.3 (*Maintenance of insurance*).

19.21 **Enforcement**

It is not necessary (a) in order for the Agent, any Lender or any other Finance Party to enforce any rights or remedies under the Finance Documents or (b) solely by reason of the execution, delivery and performance of this Agreement by the Agent, any Lender or any other Finance Party, that the Agent, such Lender or such other Finance Party be

licensed or qualified with any Mexican Governmental Authority or any Dutch Governmental Authority or be entitled to carry on business in Mexico or, as the case may be, The Netherlands.

19.22 **Taxes**

(a) Each Obligor has filed all material tax returns which are required to be filed by it and has paid all taxes due pursuant to such returns or pursuant to any material assessment received by CEMEX Parent, except where the same may be contested in good faith by appropriate proceedings and as to which such Obligor maintains reserves to the extent it is required to do so by law or pursuant to Mexican FRS. The charges, accruals and reserves on the books of each Obligor in respect of taxes or other governmental charges are, in the opinion of CEMEX Parent, adequate.

(b) Except for tax imposed by way of withholding on interest, fees and commissions remitted from Mexico, there is no tax (other than taxes on, or measured by, income or profits), levy, impost, deduction, charge or withholding imposed, levied, charged, assessed or made by or in Mexico or any political subdivision or taxing authority thereof or therein either (i) on or by virtue of the execution or delivery of this Agreement or any of the other Finance Documents or (ii) on any payment to be made by the Borrower pursuant to this Agreement or any of the other Finance Documents. The Borrower and each Guarantor is permitted to pay any additional amounts payable pursuant to Clause 13 (*Tax Gross Up and Indemnities*).

19.23 **Compliance with Laws**

CEMEX Parent and its Subsidiaries are in compliance in all material respects with all applicable Requirements of Law (including with respect to the licences, certificates, permits, franchises, and other governmental authorizations necessary to the ownership of their respective properties or to the conduct of their respective businesses, antitrust laws or Environmental Laws and the rules and regulations and laws with respect to social security, workers' housing funds, and pension funds obligations), except where the failure to so comply would not have a Material Adverse Effect.

19.24 **Pension and Welfare Plans.**

During the consecutive twelve-month period prior to the date of the execution and delivery of this Agreement and prior to the date of any Utilisation hereunder, no steps have been taken to terminate any Pension Plan, and no contribution failure has occurred with respect to any Pension Plan sufficient to give rise to a Lien under Section 302(f) of ERISA. No condition exists or event or transaction has occurred with respect to any Pension Plan which would reasonably be expected to result in the incurrence by any Obligor, any of its Subsidiaries, or any its ERISA Affiliates of any material liability (other than liabilities incurred in the ordinary course of maintaining the Pension Plan), fine or penalty. No Obligor, nor any of its Subsidiaries, has any contingent liability with respect to any post-retirement benefit under a Welfare Plan which would reasonably be expected to have a Material Adverse Effect, other than liability for continuation coverage described in Part 6 of Title I of ERISA.

19.25 **Environmental Matters**

Except as would not have or be reasonably expected to have a Material Adverse Effect:

(a) each of the properties owned or leased by an Obligor or any of its Subsidiaries (the " **Real Properties**") and all operations at the Real Properties are in compliance with all applicable Environmental Laws, and there is no violation of any Environmental Law with respect to the Real Properties or the businesses operated by the Obligors or any of their respective Subsidiaries (the " **Businesses**"), and there are no conditions relating to the Businesses or Real Properties that would reasonably be expected to give rise to liability under any applicable Environmental Laws.

(b) No Obligor has received any written notice of, or inquiry from any Governmental Authority regarding, any violation, alleged violation, non-compliance or liability regarding Hazardous Materials or compliance with Environmental Laws with regard to any of the Real Properties or the Businesses, nor, to the knowledge of an Obligor or any of its Subsidiaries, is any such notice being threatened.

(c) Hazardous Materials have not been transported or disposed of from the Real Properties, or generated, treated, stored or disposed of at, on or under any of the Real Properties or any other location, in each case by, or on behalf or with the permission of, an Obligor or any of its Subsidiaries in a manner that would give rise to liability under any applicable Environmental Laws.

(d) No judicial proceeding or governmental or administrative action is pending or, to the knowledge of an Obligor or any of its Subsidiaries, threatened, under any Environmental Law to which an Obligor or any of its Subsidiaries is or will be named as a party, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to an Obligor or any of its Subsidiaries, the Real Properties or the Businesses.

(e) There has been no release (including disposal) or to CEMEX Parent's knowledge, threat of release of Hazardous Materials at or from the Real Properties, or arising from or related to the operations of an Obligor or any of its Subsidiaries in connection with the Real Properties or otherwise in connection with the Businesses where such release constituted a violation of, or would give rise to liability under, any applicable Environmental Laws.

(f) None of the Real Properties contains any Hazardous Materials at, on or under the Real Properties in amounts or concentrations that, if released, constitute a violation of, or could give rise to liability under, Environmental Laws.

(g) No Obligor, nor any of their respective Subsidiaries, has assumed any liability of any Person (other than another Obligor or one of its Subsidiaries) under any Environmental Law. This Clause 19.23 constitutes the only representations and warranties of the Obligors with respect to any Environmental Law or Hazardous Substance.

19.26 **Mutual Benefits**

Each Guarantor represents and warrants to each Finance Party as follows: having taken into account the financial interdependence and mutual reliance between each Guarantor, its subsidiaries, and the Borrower, the continuing financial and other assistance from time to time given by each Guarantor to the Borrower and the other Obligors and vice versa, each Guarantor expects to derive material benefits, directly or indirectly (through the financing provided to its subsidiaries), from the financing obtained under this Facility, both in its separate capacity, as shareholder in various subsidiaries and as member of the Group, since the successful operation and condition of each Guarantor is dependent on the continued successful performance of the functions of the Group as a whole.

19.27 **Repetition**

The Repeating Representations are deemed to be made by each Obligor by reference to the facts and circumstances then existing on:

(a) the date of each Utilisation Request and the first day of each Interest Period; and

(b) in the case of an Additional Guarantor, the day on which the company becomes (or it is proposed that the company becomes) an Additional Guarantor.

20. **INFORMATION UNDERTAKINGS**

The undertakings in this Clause 20 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

20.1 **Financial statements**

The Borrower shall supply to the Agent:

(a) as soon as the same become available, but in any event within:

(i) 120 days after the end of each of the financial years of CEMEX Parent:

(A) a copy of the annual audit report for such year for CEMEX Parent and its Subsidiaries containing consolidated and consolidating balance sheets of CEMEX Parent and its Subsidiaries, as of the end of such financial year and consolidated statements of income and cash flows of CEMEX Parent and its Subsidiaries, for such financial year, in each case accompanied by an opinion acceptable to the Majority Lenders (acting reasonably) by KPMG Cardenas Dosal, S.C. or other independent public accountants of recognised standing acceptable to the Majority Lenders, together with a certificate of such accounting firm to the Lenders stating that in the course of the regular audit of the business of CEMEX Parent and its Subsidiaries, which audit was conducted by such accounting firm in accordance with Mexican FRS, such accounting firm has obtained no knowledge that a Default or Event of Default has occurred and is continuing, or if, in the opinion of such accounting firm a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof; and

(B) the audited unconsolidated financial statements of each Guarantor (other than CEMEX Parent) for that financial year (if available and upon request by the Agent); and

(ii) 183 days after the end of the financial year of the Borrower, its audited unconsolidated financial statements for that financial year; and

(iii) 183 days after the end of the financial year of CEMEX Spain, its audited consolidated financial statements for that financial year (if available); and

(b) as soon as the same become available, but in any event within:

(i) 60 days after the end of each of the first three quarterly periods of each of the financial years of CEMEX Parent:

(A) consolidated balance sheets of CEMEX Parent and its Subsidiaries, as of the end of such quarter and consolidated statements of income and cash flows of CEMEX Parent and its Subsidiaries for the period commencing at the end of the previous financial year and ending with the end of such quarter, duly certified (subject to year-end audit adjustments) by an Authorised Signatory of CEMEX Parent as having been prepared in accordance with Mexican FRS and together with a certificate of an Authorised Signatory of CEMEX Parent, as to compliance with the terms of this Agreement; and

(B) together with the financial statements delivered with respect to the fiscal quarter ended 30 June 2005, a schedule of all Material Subsidiaries of the Borrower, after giving effect to the acquisition of RMC Group PLC.

(ii) 90 days after the end of each of the first three quarterly periods of each of the financial years of the Borrower, its unconsolidated financial statements for that period; and

(iii) 90 days after the end of each of the first half of each of the financial years of CEMEX Spain, its consolidated financial statements for that period (if available).

20.2 **Compliance Certificate**

(a) The Borrower shall supply to the Agent, with each set of financial statements delivered pursuant to paragraph (a)(i)(A), (a)(ii), (b)(i)(A) or (b)(ii) of Clause 20.1 (*Financial statements*), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 21.13 (*Financial condition covenants*) as at the date as at which those financial statements were drawn up.

(b) Each Compliance Certificate shall be signed by an Authorised Signatory of CEMEX Parent or the Borrower, as the case may be.

20.3 **Requirements as to financial statements**

(a) Each set of financial statements delivered by the Borrower pursuant to Clause 20.1 (*Financial statements*) shall be certified by an Authorised Signatory of the relevant company as fairly representing its financial condition as at the date as at which those financial statements were drawn up.

(b) The Borrower shall procure that each set of financial statements of an Obligor delivered pursuant to Clause 20.1 (*Financial statements*) is prepared using Applicable GAAP and accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements for that Obligor unless, in relation to any set of financial statements, it notifies the Agent that there has been a change in Applicable GAAP or the accounting practices or reference periods and, unless amendments are agreed in accordance with paragraph (c) of this Clause 20.3 its auditors (or, if appropriate, the auditors of the Obligor) deliver to the Agent:

(i) a description of any change necessary for those financial statements to reflect the Applicable GAAP, accounting practices and reference periods upon which that Obligor's Original Financial Statements were prepared; and

(ii) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 21.13 (*Financial condition covenants*) has been complied with and make an accurate comparison between the financial position indicated in those financial statements and that Obligor's Original Financial Statements.

Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.

(c) If the Borrower adopts IFRS or, subject to paragraph (b) above, there are changes to the Applicable GAAP, or the accounting practices or reference periods, the Borrower and the Agent shall, at the Borrower's request, negotiate in good faith with a view to agreeing such amendments to the financial covenants in Clause 21.13 (*Financial condition covenants*) and the ratios used to calculate the Margin and, in each case, the definitions used therein as may be necessary to ensure that the criteria for evaluating the Group's financial condition grant to the Lenders protection equivalent to that which would have been enjoyed by them had the Borrower not adopted IFRS or there had not been a change in the Applicable GAAP, or the accounting practices or reference periods (subject to compliance with paragraph (b) above). Any amendments agreed will take effect on the date agreed between the Agent and the Borrower subject to the consent of the Majority Lenders. If no such agreement is reached within 90 days of the Borrower's request, the Borrower will remain subject to the obligation to deliver the information specified in paragraph (b) of this Clause 20.3.

20.4 **Information: miscellaneous**

The Borrower shall supply to the Agent:

(a) within five days after the same are sent, copies of all financial statements and reports that CEMEX Parent sends to the holders of any class of its debt securities; and

(b) promptly, such further information regarding the financial condition, business and operations of any member of the Group as any Finance Party (through the Agent) may reasonably request.

20.5 **Notification of default**

(a) Each Obligor shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence and in any event within five days after becoming aware of the occurrence of such Default (unless that Obligor is aware that a notification has already been provided by another Obligor).

(b) Promptly upon a request by the Agent, the Borrower shall supply to the Agent a certificate signed by an Authorised Signatory on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

20.6 **"Know your client" checks**

(a) Each Obligor shall promptly upon the request of the Agent or any Lender and each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective New Lender) in order for the Agent, such Lender or any prospective New Lender to carry out and be satisfied with the results of all necessary "know your client" or other checks, such as the checks required by the US Patriot Act (Title III of Pub. L. 107-56 (signed into law 26 October 2001) in relation to the identity of any person that it is required by law to carry out in relation to the transactions contemplated in the Finance Documents. For the avoidance of doubt, a Lender will have no obligation towards the Agent to evidence that it has complied with any "know your client" or similar checks in relation to the Obligors.

(b) The Borrower shall, by not less than 5 Business Days' written notice to the Agent, notify the Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Obligor pursuant to Clause 24 (*Changes to the Obligors*).

(c) Following the giving of any notice pursuant to paragraph (b) above, the Borrower shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective New Lender) in order for the Agent, such Lender or any prospective New Lender to carry out and be satisfied with the

results of all necessary "know your client" or other checks in relation to the identity of any person that it is required by law to carry out in relation to the accession of such Additional Obligor to this Agreement.

20.7 **Notices**

Give notice to the Agent and each Lender as soon as practicable after the occurrence of:

(a) promptly after the commencement thereof, notice of all litigation, actions, investigations and proceedings before any court, Governmental Authority or arbitrator affecting the Borrower or any of its Subsidiaries of the type described in Clause 19.5 (*Litigation; Material Adverse Effect*) or the receipt of written notice by the Borrower or any of its subsidiaries of potential liability or responsibility for violation, or alleged violation of any federal, state or local law, rule or regulation (including Environmental Laws) the violation of which could reasonably be expected to have a Material Adverse Effect;

(b) any development or event that has had or could reasonably be expected to have a Material Adverse Effect; and

(c) any increase of the ratio of Total Borrowings of the Borrower to Total Net Worth of CEMEX Spain above 0.35 to 1.00.

Each notice pursuant to this Clause 20.7 shall be accompanied by a certificate signed by an Authorised Signatory setting forth details of the occurrence referred to therein and stating what action the relevant member of the Group proposes to take with respect thereto.

21. GENERAL UNDERTAKINGS

The Borrower and the Guarantors hereby jointly and severally agree that, so long as the Commitments remain in effect or any Loan or other amount is owing to any Lender or Agent hereunder, the Borrower and the Guarantors shall and, in the case of CEMEX Parent only, shall cause each of its Subsidiaries to:

21.1 **Compliance with laws and Contractual Obligations, etc.**

(a) Comply, in all material respects, with all applicable Requirements of Law (including with respect to the licences, approvals, certificates, permits, franchises, notices, registrations and other governmental authorisations necessary to the ownership of its respective properties or to the conduct of its respective business, antitrust laws or Environmental Laws and laws with respect to social security and pension funds obligations) and all material Contractual Obligations, except where the failure to so comply could not reasonably be expected to result in a Material Adverse Effect.

(b) In the case of the Borrower, comply with any applicable provisions of the FMSA.

21.2 **Payment of obligations**

Pay and discharge, before the same shall become delinquent, (a) all taxes, assessments and governmental charges or levies assessed, charged or imposed upon it or upon its

property and (b) all lawful claims that, if unpaid, might by law become a Lien upon its property, except where the failure to make such payments or effect such discharges could not reasonably be expected to have a Material Adverse Effect; **provided that** no member of the Group shall be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim that is being contested in good faith and by proper proceedings and as to which appropriate reserves are being maintained, unless and until any Lien resulting therefrom attaches to its property and becomes enforceable against its other creditors.

21.3 **Maintenance of insurance**

Maintain insurance with reputable insurance companies or associations in such amounts and covering such risks as is usually carried by companies of established reputation engaged in similar businesses and owning similar properties in the same general areas in which CEMEX Parent or such Subsidiary of CEMEX Parent operates.

21.4 **Conduct of business and preservation of corporate existence**

Continue to engage in business of the same general type as now conducted by members of the Group and preserve and maintain its corporate existence, rights (charter and statutory), licences, consents, permits, notices or approvals and franchises deemed material to its business; **provided that** no member of the Group shall be required to maintain its corporate existence in connection with a merger or consolidation permitted by Clause 21.15 (*Consolidations and Mergers*), and **provided further that** no member of the Group shall be required to preserve any right or franchise if that member of the Group shall in its good faith judgment determine that the preservation thereof is no longer in the best interests of CEMEX Parent or that member of the Group and the loss thereof could not reasonably be expected to have a Material Adverse Effect.

21.5 **Inspection of property**

At any reasonable time during normal business hours and from time to time with at least ten Business Days' prior notice, or at any time if a Default or Event of Default shall have occurred and be continuing, permit the Agent or any of the Lenders or any agents or representatives thereof to examine and make abstracts from the records and books of account of, and visit the properties of, each of the Obligors, and to discuss the affairs, finances and accounts of such Obligors with any of its officers or directors and with its independent certified public accountants. All expenses associated with such inspection shall be borne by the inspecting Lenders; **provided that** if a Default or an Event of Default shall have occurred and be continuing, any expenses associated with such inspection shall be borne by the Obligors.

21.6 **Books and records**

Keep proper books of record and account, in which full and correct entries shall be made of all financial transactions and the assets and business of such member of the Group in accordance with Applicable GAAP, consistently applied.

21.7 **Maintenance of properties, etc.**

Maintain and preserve all of its properties that are used or useful in the conduct of its business in good working order and condition, ordinary wear and tear excepted, and maintain, preserve and protect all intellectual property and all necessary governmental and third party approvals, franchises, licences and permits material to the business of

CEMEX Parent or any Subsidiary of CEMEX Parent; **provided that** none of the foregoing shall prevent any member of the Group from discontinuing the operation and maintenance of any of its properties or allowing to lapse certain approvals, licences or permits the discontinuance of which is desirable in the conduct of its business and which discontinuance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

21.8 **Maintenance of Government approvals**

Maintain in full force and effect at all times all approvals of and filings with any Governmental Authority or third party required under applicable law for (a) the conduct of its business (including, without limitation, antitrust laws or Environmental Laws); (b) the performance of each Obligors' obligations hereunder and under the other Finance Documents by such Obligors and (c) for the validity or enforceability hereof and thereof, except where in each case, failure to maintain any such approvals or fillings could not reasonably be expected to have a Material Adverse Effect.

21.9 **Pari passu ranking**

Ensure that at all times the Obligations of each Obligor under the Finance Documents constitute unconditional general obligations of such Obligor ranking in priority of payment at least *pari passu* with all other senior unsecured, unsubordinated Debt of such Obligor.

21.10 **Transactions with Affiliates**

Conduct each transaction otherwise permitted under this Agreement with any of its Affiliates on terms that are commercially reasonable and no less favourable to that member of the Group than it would obtain in a comparable arm's-length transaction with a Person not an Affiliate.

21.11 **Use of Proceeds**

The Borrower will use the proceeds of all Loans made hereunder for general corporate purposes (including the repayment of existing Debt of CEMEX Parent or any of its Subsidiaries).

21.12 **Further assurances**

From time to time, do and perform any and all acts and execute any and all documents as may be necessary or as reasonably requested by any Lender in order to effect the purposes of this Agreement or to protect the rights or interests of the Lenders under any of the Finance Documents.

Negative Covenants - all Obligors

The Borrower and the Guarantors hereby jointly and severally agree that, so long as the Commitments remain in effect or any Loan or other amount is owing to any Lender or the Agent hereunder, the Borrower and the Guarantors shall not, and shall not permit any of their Subsidiaries to, directly or indirectly:

21.13 **Financial condition covenants**

(a) Permit the Consolidated Leverage Ratio of CEMEX Parent at any time to exceed A:1, where A has the value as set out in the table below opposite the date on which that the Relevant Period ends:

Relevant Period ending in	Consolidated Leverage Ratio (with Consolidated Net Debt adjusted as described below)
	A
December 2008	4.50
March 2009	4.50
June 2009	4.75
September 2009	4.50
December 2009	4.50
March 2010	4.25
June 2010	4.25
September 2010	4.00
December 2010	3.75
March 2011	3.75
June 2011	3.75
September 2011 and thereafter	3.50

(b) Permit the Consolidated Fixed Charge Coverage Ratio of CEMEX Parent for any period of four consecutive fiscal quarters of CEMEX Parent to be less than 2.50 to 1.00.

(c) At the time of any entry into or incurrence of any Debt or other obligation constituting a portion of Total Borrowings of the Borrower, and after giving effect thereto, permit the ratio of Total Borrowings of the Borrower to Total Net Worth of CEMEX Spain, to exceed 0.35 to 1.0.

(d) Concurrently with the delivery by CEMEX Parent of any financial statements pursuant to Clause 20 (*Information Undertakings)*, CEMEX Parent shall deliver to the Agent (with sufficient copies for each Lender) a certificate from an Authorised Signatory containing all information and calculations necessary for determining compliance by the Borrower with paragraphs (a), (b) and (c) of this Clause 21.13.

(e) For the purposes of calculating the Consolidated Leverage Ratio in paragraph (a) above, “Consolidated Net Debt” shall not include any Debt which, notwithstanding falling within the definition of Debt, is not required to be recorded as a liability by CEMEX Parent on its consolidated balance sheet in accordance with Mexican FRS.

21.14 **Liens**

Create, incur, assume or permit to exist any Lien on or with respect to any property or asset of any member of the Group, whether now owned or held or hereafter acquired, other than the following ("**Permitted Liens**"):

(a) Liens for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which adequate reserves or other appropriate provision, if any, as shall be required by Applicable GAAP shall have been made;

(b) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Applicable GAAP shall have been made;

(c) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security;

(d) any attachment or judgment Lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(e) liens existing on the Amendment No. 3 Effective Date as described in Schedule 10 (*Permitted Liens*);

(f) any Lien on property acquired by the Borrower or any Guarantor or any of their Subsidiaries after the date hereof that was existing on the date of acquisition of such property; provided that such Lien was not incurred in anticipation of such acquisition, and any Lien created to secure all or any part of the purchase price, or to secure Debt incurred or assumed to pay all or any part of the purchase price, of property acquired by any member of the Group after the date hereof; **provided, further** that (i) any such Lien permitted pursuant to this paragraph (f) shall be confined solely to the item or items of property so acquired (including, in the case of any Acquisition of a corporation through the acquisition of 51% or more of the voting stock of such corporation, the stock and assets of any Acquired Subsidiary or Acquiring Subsidiary) and, if required by the terms of the instrument originally creating such Lien, other property which is an improvement to, or is acquired for specific use with, such acquired property; and (ii) if applicable, any such Lien shall be created within nine months after, in the case of property, its acquisition, or, in the case of improvements, their completion;

(g) any Lien renewing, extending or refunding any Lien permitted by paragraph (f) above; **provided** that the principal amount of Debt secured by such Lien immediately prior thereto is not increased or the maturity thereof reduced and such Lien is not extended to other property;

(h) any Liens created on shares of capital stock of CEMEX Parent or any of its Subsidiaries solely as a result of the deposit or transfer of such shares into a trust or a special purpose vehicle (including any entity with legal personality) of which such shares constitute the sole assets; **provided that** (i) any shares of Subsidiary stock held in such trust, corporation or entity could be sold by CEMEX Parent; and (ii) proceeds from the deposit or transfer of such shares into such trust, corporation or entity and from any transfer of or distributions in respect of any member of the Group's interest in such trust, corporation or entity are applied as provided under Clause 21.16 (*Sales of assets, etc*); and **provided further** that such Liens may not secure Debt of any member of the Group (unless permitted under another clause of this Clause 21.14);

(i) any Liens on securities securing repurchase obligations in respect of such securities;

(j) any Liens in respect of any Qualified Receivables Transaction;

(k) in addition to the Liens permitted by the foregoing clauses (a) through (j), Liens securing Debt of CEMEX Parent and its Subsidiaries (taken as a whole) not in excess of 5% of the Adjusted Consolidated Net Tangible Assets of CEMEX Parent and its Subsidiaries; and

(l) any Liens on "margin stock" purchased with the proceeds of the Loans within the meaning of Regulation U, if and to the extent the value of all "margin stock" of the Borrower and its Subsidiaries exceeds twenty five percent (25%) of the value of the total assets of the Borrower and its Subsidiaries,

unless, in each case, CEMEX Parent has made or caused to be made effective provision whereby the Obligations hereunder are secured equally and rateably with, or prior to, the Debt secured by such Liens (other than Permitted Liens) for so long as such Debt is so secured.

21.15 **Consolidations and mergers**

With respect to the Obligors only, in one or more related transactions (a) consolidate with or merge into any other Person or permit any other Person to merge into it, or (b) directly or indirectly, transfer, convey, sell, lease or otherwise dispose of all or substantially all of its properties or assets to any Person unless, with respect to any transaction described in (a) or (b) above immediately after giving effect to such transaction:

(a) the Person formed by any such consolidation or merger, if it was not an Obligor, or the Person that acquires by transfer, conveyance, sale, lease or other disposition all or substantially all of the properties or assets of such Obligor (any such Person, a " **Successor**") (i) shall be a company organised and validly existing under the laws of its place of incorporation, which in the case of a Successor to the Borrower or any Guarantor, shall be any of Mexico, the United

States, Canada, France, Belgium, Germany, Italy, Luxembourg, The Netherlands, Portugal, Spain, Switzerland or the United Kingdom or any political subdivision thereof, (ii) shall expressly assume, pursuant to a written agreement in form and substance satisfactory to the Majority Lenders, all of the Obligations of that Obligor, under each of the Finance Documents to which that Obligor is party;

(b) in the case of any such transaction involving the Borrower or any Guarantor, the Borrower or such Guarantor, or the Successor of any thereof, as the case may be, shall expressly agree to indemnify each Lender and the Agent against any tax, levy, assessment or governmental charge payable by withholding or deduction thereafter imposed on such Lender and/or the Agent solely as a consequence of such transaction with respect to any payments under the Finance Documents;

(c) including for purposes of this paragraph (c), the substitution of any Successor to any Obligor for such Obligor (treating any Debt or Lien incurred by any Obligor or any Successor to such Obligor, as a result of such transactions as having been incurred at the time of such transaction), no Default or Event of Default shall have occurred and be continuing; and

(d) the Borrower shall have delivered to the Agent an officer's certificate and an opinion of counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a written agreement is required in connection with such transaction, such written agreement shall comply with the relevant provisions of this Clause 21, and that all conditions precedent provided for in this Agreement relating to such transaction have been complied with.

21.16 **Sales of assets, etc.**

Sell, lease or otherwise dispose of any of its assets (including the capital stock of any Subsidiary), other than (a) inventory, trade receivables and assets surplus to the needs of the business of CEMEX Parent or any Subsidiary of CEMEX Parent sold in the ordinary course of business; (b) assets not used, usable or held for use in connection with cement operations and related operations, and (c) any "margin stock" within the meaning of Regulation U acquired by CEMEX Parent through a Tender Offer, unless the proceeds of the sale of such assets are retained by CEMEX Parent or such Subsidiary, as the case may be, and, as promptly as practicable after such sale (but in any event within 180 days of such sale), the proceeds are applied to (i) expenditures for property, plant and equipment usable in the cement industry or related industries; (ii) the repayment of senior Debt of CEMEX Parent or any Subsidiary of CEMEX Parent, whether secured or unsecured; or (iii) investments in companies engaged in the cement industry or related industries; provided, however, that the net proceeds from Qualified Receivables Transactions to the extent exceeding, in the aggregate, the aggregate US$ amount set forth in Schedule 14 (*Qualified Receivables Transactions*) shall be applied to the repayment of senior Debt of CEMEX Parent or any of its Subsidiaries, whether secured or unsecured, and provided that nothing in this Clause 21.16 shall prevent any sale, lease, transfer or other disposal of assets from any Subsidiary of CEMEX Parent to another Subsidiary of CEMEX Parent.

21.17 **Restricted payments**

In the case of CEMEX Parent only, declare or pay any dividend (other than dividends payable solely in common stock of CEMEX Parent) on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of, any Capital Stock of CEMEX Parent (other than any cash payment in respect of pre-existing scheduled obligations under forward purchase agreements for stock of CEMEX Parent entered into by CEMEX Parent or its Subsidiaries with third-party financial institutions) whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or obligations of any Person (collectively, "**Restricted Payments**") (a) while any Event of Default described in paragraph (a) or (b) of Clause 22 (*Events of Default*) or any Default or Event of Default described in paragraph (d) of Clause 22 (*Events of Default*) (but only with respect to Clause 21.13 (*Financial condition covenants*)) shall have occurred and be continuing or (b) if any Default or Event of Default would exist after giving effect to such Restricted Payment.

21.18 **Accounting changes**

(a) Make or permit any change in accounting policies or reporting practices, except as required or permitted by Applicable GAAP or (b) permit the fiscal year of any Obligor to end on a day other than 31 December or change any Obligor's method of determining fiscal quarters, unless, in the case of paragraph (b), the Borrower shall have entered into negotiations with the Agent in order to amend the relevant provisions of this Agreement so as to equitably reflect such change in the Borrower's fiscal year end or method of calculating fiscal quarters with the desired result that the criteria for evaluating the Borrower's financial condition shall be the same after such change as if such change had not been made (and until such time as such an amendment shall have been executed and delivered by the Borrower, the Agent and the Majority Lenders, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such change had not occurred).

21.19 **Clauses restricting Subsidiary distributions**

Enter into or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to (a) make Restricted Payments in respect of any Capital Stock of such Restricted Subsidiary held by, or pay any Debt owed to, any Obligor or any other such Restricted Subsidiary, (b) make loans or advances to, or other investments in, any Obligor or any other such Restricted Subsidiary or (c) transfer any of its assets to any Obligor or any other such Restricted Subsidiary, except for such encumbrances or restrictions existing under or by reason of any restrictions with respect to a Restricted Subsidiary imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Capital Stock or assets of such Restricted Subsidiary; **and for the avoidance of doubt,** nothing in this Clause 21.19 shall prevent any Trademark Company or New Holdco from declaring or paying any dividend to the Borrower or its immediate Holding Company and that immediate Holding Company in turn declaring or paying a dividend of similar amount to its immediate Holding Company and so forth so that ultimately payment is made to the Borrower.

21.20 **Change in nature of business**

With respect to the Obligors and all Material Subsidiaries only, make any material change in the nature of its business as carried on at the date hereof.

21.21 **Margin regulations**

Use any part of the proceeds of the Loans for any purpose which would result in any violation (whether by the Borrower, any Guarantor, the Agent or the Lenders) of Regulation T, U or X of the Federal Reserve Board or to extend credit to others for any such purpose, or engage in, or maintain as one of its important activities, the business of extending credit for the purpose of purchasing or carrying any margin stock (as defined in such regulations).

21.22 **Ownership of CEMEX Spain**

Permit the Borrower at any time to own less than an 80% direct (or indirect if solely through intermediate holding companies which have no indebtedness and no restrictions on their ability to pay dividends) voting and equity ownership interest in CEMEX Spain, or its successors or transferees in the event of the merger or consolidation of CEMEX Spain or the transfer, conveyance, sale, lease or other disposition of all or substantially all its properties and assets in Clause 21.15 (*Consolidations and mergers*).

21.23 **Ownership of the Borrower**

Permit CEMEX Parent at any time to cease to control, or to own less than a 90% direct or indirect equity ownership interest in, the Borrower, or its Successors or transferees in the event of the merger or consolidation of the Borrower or the transfer, conveyance, sale, lease or other disposition of all or substantially all its properties and assets in accordance with Clause 21.15 (*Consolidations and mergers*).

21.24 **Ownership of Trademark Companies**

(a) Permit the Borrower to own less than a 99.9% direct or indirect equity ownership interest in CTW and each other Trademark Company.

(b) Permit CEMEX Parent at any time to own less than 99.9% direct or indirect voting and equity ownership interest in each Trademark Company.

21.25 **Incurrence of Debt by Trademark Companies**

Permit any Trademark Company at any time to assume, incur or suffer to exist any Debt or other monetary liability of any kind to any Person other than any member of the Group except, in the case of any monetary liability not constituting Debt, in the ordinary course pursuant to its day to day business activities.

21.26 **Limitation on Indebtedness**

(a) CEMEX Parent shall not, and shall not permit any of its Subsidiaries to, Incur any Debt (including Acquired Debt), provided that, CEMEX Parent or any Subsidiary may Incur Debt if on the date of such Incurrence and after giving effect thereto on a pro forma basis (as if such Debt had been Incurred on the first day of the Relevant Period):

(i) the Consolidated Leverage Ratio is less than 3.5 to 1.0; and

(ii) no Event of Default has occurred and is continuing or would result from the Incurrence of such Debt.

Notwithstanding the foregoing, CEMEX Parent and its Subsidiaries may Incur Permitted Debt.

(b) Upon each Incurrence of Debt, CEMEX Parent or Subsidiary, as the case may be, may designate (and later re-designate) in its sole discretion pursuant to which category of Permitted Debt any Debt is being Incurred and may subdivide an amount of Debt and designate (and later redesignate) more than one such category pursuant to which such amount of Debt is being Incurred and such Permitted Debt shall not be deemed to have been Incurred or outstanding under any other category of Permitted Debt. For the avoidance of doubt, the inability of CEMEX Parent or its Subsidiary to Incur Debt under one category shall not limit the ability of CEMEX Parent or its Subsidiary to Incur Debt under another category.

(c) Accrual of interest shall not be deemed to be an Incurrence of Debt for purposes of this Clause 21.26. Notwithstanding any other provision of this Clause 21.26, the maximum amount of Debt that CEMEX Parent and its Subsidiaries may Incur pursuant to this Clause 21.26 shall not be deemed to be exceeded, with respect to any outstanding Debt, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Debt Incurred to refinance other Debt, if Incurred in a different currency from the Debt being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Debt is denominated that is in effect on the date of such refinancing.

(d) For purposes of determining compliance with any U.S. dollar-denominated restriction on the Incurrence of Debt, the U.S. dollar equivalent principal amount of Debt denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Debt was Incurred.

22. EVENTS OF DEFAULT

22.1 Events of Default

If any of the following specified events (each an "**Event of Default**") shall occur:

(a) any principal of any Loan is not paid when due in accordance with the terms hereof; or

(b) any interest on any Loan, any fee or other amount payable hereunder or under any other Finance Document, is not paid within three Business Days after any such interest or other amount becomes due and payable in accordance with the terms hereof; or

(c) any representation or warranty made or deemed made by any Obligor herein or in any other Finance Document or that is contained in any certificate, document or financial or other statement furnished at any time under or in connection with

this Agreement or any other Finance Document shall prove to have been incorrect in any material respect on or as of the date made or deemed to be made and, if remediable, such failure shall remain unremedied for thirty days after the earlier of the date on which (i) written notice thereof shall have been given to the Borrower by the Agent and (ii) a director of any Obligor becomes aware of such incorrectness; or

(d) any Obligor shall fail to perform or observe any term, covenant or agreement contained in Clause 20.1 (*Financial Statements*), paragraph (a) of Clause 20.5 (*Notification of default*), Clause 21.4 (*Conduct of business and preservation of corporate existence*) (with respect to the Borrower's or any Guarantor's existence only), Clause 21.5 (*Inspection of Property*), Clause 21.9 (*Pari passu ranking*) or Clauses 21.13 (*Financial condition covenants*) to Clause 21.25 (*Incurrence of debt by trademark companies*) of this Agreement; or

(e) any Obligor shall fail to perform or observe any term, covenant or agreement contained in this Agreement or any other Finance Document (other than as provided in paragraphs (a) to (d) of this Clause 22.1), and such default shall continue unremedied for a period of 30 days after the earlier of the date on which (i) written notice shall have been given to the Borrower by the Agent at the request of any Lender and (ii) a director of any Obligor becomes aware of such failure; or

(f) the occurrence of a default or event of default under any indenture, agreement or instrument relating to any Material Debt of any CEMEX Parent or any of its Subsidiaries and (unless any principal amount of such Material Debt is otherwise due and payable) such default or event of default results in the acceleration of the maturity of any principal amount of such Material Debt prior to the date on which it would otherwise become due and payable; or

(g) the Borrower, any Guarantor or any Material Subsidiary shall commence a voluntary case or other proceeding seeking liquidation, reorganisation, concurso mercantil or other relief with respect to itself or its debts under any bankruptcy, insolvency, reorganisation or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorise any of the foregoing or the equivalent thereof under Mexican law (including the *Ley de Concursos Mercantiles*) or under Dutch law; or

(h) an involuntary case or other proceeding shall be commenced against the Borrower, any Guarantor or any Material Subsidiary seeking liquidation, reorganisation or other relief with respect to it or its debts under any bankruptcy, insolvency, concurso mercantil or other similar law now or hereafter in effect (including but not limited to the *Ley de Concursos*

Mercantiles) or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 60 consecutive days; or an order for relief shall be entered against the Borrower, any Guarantor or any Material Subsidiaries under any bankruptcy, insolvency *suspensión de pagos* or other similar law as now or hereafter in effect; or

(i) a final judgment or judgments or order or orders not subject to further appeal for the payment of money in an aggregate amount in excess of U.S.$50,000,000 shall be rendered against the Borrower, CEMEX Parent and/or one or more of the Subsidiaries of CEMEX Parent that are neither discharged nor bonded in full within 30 days thereafter; or

(j) the obligations of the Borrower under this Agreement or of any Obligor under this Agreement shall fail to rank at least pari passu with all other senior unsecured Debt of the Borrower or such Obligor, as the case may be; or

(k) the Borrower shall contest the validity or enforceability of any Finance Document or shall deny generally the liability of the Borrower under any Finance Documents or any Guarantor shall contest the validity of or the enforceability of their guarantee hereunder or any obligation of any Guarantor under Clause 18 (*Guarantee and Indemnity*) hereof shall not be (or is claimed by either Guarantor not to be) in full force and effect;

(l) any governmental or other consent, license, approval, permit or authorisation which is now or may in the future be necessary or appropriate under any applicable Requirement of Law for the execution, delivery, or performance by the Borrower or any Guarantor of any Finance Document to which it is a party or to make such Finance Document legal, valid, enforceable and admissible in evidence shall not be obtained or shall be withdrawn, revoked or modified or shall cease to be in full force and effect or shall be modified in any manner that would have an adverse effect on the rights or remedies of the Agent or the Lenders; or

(m) any Governmental Authority shall condemn, nationalise, seize or otherwise expropriate all or any substantial portion of the property of, or capital stock issued or owned by, the Borrower or any Guarantor or take any action that would prevent the Borrower or any Guarantor from performing its obligations under this Agreement or the other Finance Documents; or

(n) a moratorium shall be agreed or declared in respect of any Debt of the Borrower or any Guarantor or any restriction or requirement not in effect on the date hereof shall be imposed, whether by legislative enactment, decree, regulation, order or otherwise, which limits the availability or the transfer of foreign exchange by the Borrower or any Guarantor for the purpose of performing any material obligation under any Agreement or any other Finance Document; or

(o) the beneficial ownership (within the meaning of Rule 13d-3 promulgated by the SEC under the Securities Exchange Act of 1934, as amended) of 20% or more in voting power of the outstanding voting stock of the Borrower or any other Guarantor is acquired by any Person; provided that the acquisition of beneficial ownership of capital stock of CEMEX Parent or any other Guarantor by Lorenzo H. Zambrano or any member of his immediate family shall not constitute an Event of Default,

then, and in any such event:

(i) if such event is an Event of Default specified in paragraphs (h) or (i) above with respect to any Obligor, automatically the Commitments shall immediately terminate and the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Finance Documents shall immediately become due and payable; and

(ii) if such event is any other Event of Default, either of the following actions may be taken:

(A) with the consent of the Majority Lenders, the Agent may, or upon the request of the Majority Lenders, the Agent shall, by notice to the Borrower declare the Commitments to be terminated forthwith, whereupon the Commitments shall immediately terminate; and

(B) with the consent of the Majority Lenders, the Agent may, or upon the request of the Majority Lenders, the Agent shall, by notice to the Borrower, declare the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Finance Documents to be due and payable forthwith, whereupon the same shall immediately become due and payable.

Except as expressly provided above in this Clause, presentment, demand, protest and all other notices of any kind are hereby expressly waived by the Borrower.

SECTION 9
CHANGES TO PARTIES

23. CHANGES TO THE LENDERS

23.1 Assignments and transfers by the Lenders

Subject to this Clause 23, a Lender (the "**Existing Lender**") may:

(a) assign any of its rights and benefits in respect of any Utilisation; or

(b) transfer by novation any of its rights, benefits and obligations in respect of any Commitment or Utilisation,

to another bank or financial institution or to a securitisation trust or fund or (subject to paragraph (a) of Clause 23.2 (*Conditions of assignment or transfer*)) other entity (the "**New Lender**").

23.2 Conditions of assignment or transfer

(a) The Borrower must be given prior notification of any assignment or transfer becoming effective under Clause 23.1 (*Assignments and transfers by the Lenders*) and the consent of the Borrower is required for an assignment or transfer to an entity which is not a bank or financial institution or a securitisation trust or fund.

(b) The consent of the Borrower to an assignment or transfer must not be unreasonably withheld or delayed. The Borrower will be deemed to have given its consent five Business Days after the Existing Lender has requested it unless consent is expressly refused by the Borrower within that time.

(c) An assignment will only be effective on:

(i) receipt by the Agent of written confirmation from the New Lender that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it was an Original Lender; and

(ii) the satisfaction of the Agent with the results of all "know your client" or other checks relating to the identity of any person that it is required by law to carry out in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender.

(d) A transfer will only be effective if the procedure set out in Clause 23.5 (*Procedure for transfer*) is complied with.

(e) An assignment or transfer will be effective upon surrender for registration of assignment or transfer, by way of an endorsement (*endoso*) and delivery of the Notes held by the Existing Lender evidencing such Loan accompanied by a duly executed Transfer Certificate, and thereupon one or more new Notes shall be issued to the New Lender.

(f) If:

(i) a Lender assigns or transfers any of its rights, benefits or obligations under the Finance Documents or changes its Facility Office; and

(ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 13 (*Tax gross-up and indemnities*) or Clause 14 (*Increased costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

(g) The minimum amount transferred to a New Lender (including any transfer in respect of an enforcement of any Security granted by a Lender pursuant to Clause 23.9 (*Security over Lenders' Rights*)) shall be at least EUR 50,000 (or equivalent in other currencies) or, if it is less, the New Lender shall confirm in writing to the Borrower that it, the New Lender, is a professional market party within the meaning of the FMSA.

(h) Nothing herein shall prohibit any Lender from pledging or assigning any Note to any Federal Reserve Bank of the United States in accordance with applicable law and without compliance with the foregoing provisions of this Clause 23.2 **provided however**, that such pledge or assignment shall not release such Lender from its obligations hereunder.

23.3 **Assignment or transfer fee**

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of $2,000, except no such fee shall be payable in connection with an assignment or transfer to a New Lender upon primary syndication of the Facilities.

23.4 **Limitation of responsibility of Existing Lenders**

(a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

(i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;

(ii) the financial condition of any Obligor;

(iii) the performance and observance by any Obligor of its obligations under the Finance Documents or any other documents; or

(iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law or regulation are excluded.

(b) Each New Lender confirms to the Existing Lender, and the other Finance Parties that it:

(i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and

(ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

(c) Nothing in any Finance Document obliges an Existing Lender to:

(i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause 23; or

(ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

23.5 **Procedure for transfer**

(a) Subject to the conditions set out in Clause 23.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (b) below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate and send a copy to the Borrower.

(b) On the Transfer Date:

(i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the "**Discharged Rights and Obligations**");

(ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

(iii) the Agent, the Arranger, the New Lender and the other Lenders, shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Arranger and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and

(iv) the New Lender shall become a Party as a "Lender".

23.6 **Copy of Transfer Certificate to Borrower**

The Agent shall, as soon as reasonably practicable after it has received a Transfer Certificate, send to the Borrower a copy of that Transfer Certificate.

23.7 **Disclosure of information**

Any Lender may disclose to any of its Affiliates and any other person:

(a) to (or through) whom that Lender assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under the Finance Documents;

(b) with (or through) whom that Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, the Finance Documents; or

(c) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation,

any information about any Obligor, the Group and the Finance Documents as that Lender shall consider appropriate **provided that** the person to whom the information is to be given has entered into a Confidentiality Undertaking.

23.8 **Interest**

All interest accrued in the Interest Period in which a transfer is effective shall be paid to the Existing Lender.

23.9 **Security over Lenders' rights**

In addition to the other rights provided to Lenders under this Clause 23, each Lender may without consulting with or obtaining consent from any Obligor, at any time create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

(a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and

(b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or other Security shall:

(i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or other Security for the Lender as a party to any of the Finance Documents; or

(ii) require any payments to be made by an Obligor or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Finance Documents.

24. CHANGES TO THE OBLIGORS

24.1 Assignments and transfers by Obligors

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

24.2 Additional Guarantors

(a) Subject to compliance with the provisions of paragraphs (b) and (c) of Clause 20.6 (*"Know your client" checks*), the Borrower may request that any of its wholly owned Subsidiaries become an Additional Guarantor.

(b) The Borrower shall procure that in respect of (i) each of its Subsidiaries to whom a sale, lease, transfer or other disposal is made by an Obligor in accordance with the terms of this Agreement; (ii) each of its Subsidiaries which is or which is deemed to be a Material Subsidiary in accordance with the terms of this Agreement, such Subsidiary or the Holding Company of such Material Subsidiary (at the election of the Borrower) or such person respectively become an Additional Guarantor (unless such Subsidiary or such Material Subsidiary (in the case of (i) and (ii) respectively) is already a Guarantor) by:

(A) the Borrower delivering to the Agent a duly completed and executed Accession Letter; and

(B) the Agent receiving from the Borrower all of the documents and other evidence referred to in Part II of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Guarantor*) in relation to that Additional Guarantor.

(c) The Agent shall notify the Guarantors and the Lenders promptly upon being satisfied that it has received all the documents and other evidence listed in Part II of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Guarantor*).

(d) For the purposes of this Clause 24.2 only, a "Holding Company" means, in relation to a Material Subsidiary, any company or corporation in respect of which it is a Subsidiary and which is not in turn a Subsidiary of a Holding Company (as defined in Clause 1.1 (*Definitions*)).

24.3 **Resignation of Guarantor**

A Guarantor (a "**Resigning Guarantor**") will cease to be a Guarantor if:

(a) it makes a sale, lease, transfer or other disposal of all or substantially all (but not a part only) of its assets to another member of the Group which is or becomes a Guarantor in accordance with paragraph (a) (i) of Clause 24.2 (*Additional Guarantors*); or

(b) its Holding Company becomes a Guarantor,

provided that:

(i) such Resigning Guarantor also, if applicable, ceases concurrently to be a guarantor in respect of any other indebtedness of the Group or of any member of the Group;

(ii) such Resigning Guarantor notifies the Agent of any sale, lease, transfer or other disposal in accordance with paragraph (a) of this Clause 24.3; and

(iii) the Borrower may not resign as a Guarantor without the consent of all Lenders.

24.4 **Repetition of Representations**

Delivery of an Accession Letter constitutes confirmation by the relevant Affiliate that the Repeating Representations are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

SECTION 10
THE FINANCE PARTIES

25. ROLE OF THE AGENT AND THE ARRANGER

25.1 Appointment of the Agent

(a) Each of the Arranger and the Lenders appoints the Agent to act as its agent under and in connection with the Finance Documents.

(b) Each of the Arranger and the Lenders, authorises the Agent to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

25.2 Duties of the Agent

(a) The Agent shall promptly forward to a Party the original or a copy of any document (including, but not limited to, the Borrower's annual financial statements) which is delivered to the Agent for that Party by any other Party.

(b) The Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(c) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.

(d) If the Agent is aware of the non-payment of any principal, interest or fee payable to a Finance Party (other than the Agent or the Arranger) under this Agreement it shall promptly notify the other Finance Parties.

(e) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

25.3 Role of the Arranger

Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

25.4 No fiduciary duties

(a) Nothing in this Agreement constitutes the Agent and/or the Arranger, as a trustee or fiduciary of any other person.

(b) Neither the Agent nor the Arranger shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

25.5 Business with the Group

The Agent and the Arranger may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

25.6 **Rights and discretions of the Agent**

(a) The Agent may rely on:

(i) any representation, notice or document (including, for the avoidance of doubt, any representation, notice or document communicating the consent of the Majority Lenders pursuant to Clause 34.1 (*Required consents*)) believed by it to be genuine, correct and appropriately authorised; and

(ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

(b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:

(i) no Default has occurred (unless it has actual knowledge of a Default arising under paragraphs (a) or (b) of Clause 22 (*Events of Default*));

(ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and

(iii) any notice or request made by the Borrower (other than a Utilisation Request or Selection Notice) is made on behalf of and with the consent and knowledge of all the Obligors.

(c) The Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.

(d) The Agent may act in relation to the Finance Documents through its personnel and agents.

(e) The Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.

(f) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Arranger is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law and regulation or a breach of a fiduciary duty or duty of confidentiality.

25.7 **Majority Lenders' instructions**

(a) Unless a contrary indication appears in a Finance Document, the Agent shall (i) exercise any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by the Majority Lenders (or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders.

(b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders will be binding on all the Finance Parties.

(c) The Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders) until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.

(d) In the absence of instructions from the Majority Lenders, (or, if appropriate, the Lenders) the Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.

(e) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.

25.8 **Responsibility for documentation**

Neither the Agent nor the Arranger:

(a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Agent, the Arranger, an Obligor or any other person given in or in connection with any Finance Document or the Information Memorandum; or

(b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document.

25.9 **Exclusion of liability**

(a) Without limiting paragraph (b) below, neither the Agent nor the Arranger will be liable for any action taken by it under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct or wilful breach of any Finance Document.

(b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Finance Document and any officer, employee or agent of the Agent may rely on this Clause 25 subject to Clause 1.4 (*Third Party Rights*) and the provisions of the Third Parties Act.

(c) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.

(d) Nothing in this Agreement shall oblige the Agent or the Arranger to carry out any checks pursuant to any laws or regulations relating to money laundering in relation to any person on behalf of any Lender and each Lender confirms to the Agent and the Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Arranger.

25.10 **Lenders' indemnity to the Agent**

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by an Obligor pursuant to a Finance Document).

25.11 **Resignation of the Agent**

(a) The Agent may resign and appoint one of its Affiliates acting through an office in the European Union as successor by giving notice to the other Finance Parties and the Borrower.

(b) Alternatively the Agent may resign by giving notice to the other Finance Parties and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Agent.

(c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the Agent (after consultation with the Borrower) may appoint a successor Agent (acting through an office in the European Union).

(d) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.

(e) The Agent's resignation notice shall only take effect upon the appointment of a successor.

(f) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 25. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

(g) After consultation with the Borrower, the Majority Lenders may, by notice to the Agent, require it to resign in accordance with paragraph (b) above. In this event, the Agent shall resign in accordance with paragraph (b) above.

25.12 **Confidentiality**

(a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.

(c) Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent and the Arranger are obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

25.13 **Relationship with the Lenders**

(a) The Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five Business Days prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

(b) Each Lender shall supply the Agent with any information required by the Agent in order to calculate the Mandatory Cost in accordance with Schedule 4 (*Mandatory Cost Formulae*).

25.14 **Credit appraisal by the Finance Parties**

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Finance Party confirms to the Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

(a) the financial condition, status and nature of each member of the Group;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

(c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and

(d) the adequacy, accuracy and/or completeness of the Information Memorandum and any other information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.

25.15 **Reference Banks**

If a Reference Bank (or, if a Reference Bank is not a Lender, the Lender of which it is an Affiliate) ceases to be a Lender, the Agent shall (in consultation with the Borrower) appoint another Lender or an Affiliate of a Lender to replace that Reference Bank.

25.16 **Agent's Management Time**

Any amount payable to the Agent under Clause 15.3 (*Indemnity to the Agent*) and Clause 25.10 (*Lenders' indemnity to the Agent*) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Borrower and the Lenders, and is in addition to any fee paid or payable to the Agent under Clause 12 (*Fees*).

25.17 **Deduction from amounts payable by the Agent**

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

26. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

(a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;

(b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or

(c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

27. SHARING AMONG THE FINANCE PARTIES

27.1 **Payments to Finance Parties**

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from an Obligor other than in accordance with Clause 28 (*Payment mechanics*) (whether by way of set-off or otherwise) and applies that amount to a payment due under the Finance Documents then:

(a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;

(b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 28 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and

(c) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the " **Sharing Payment**") equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 28.5 (*Partial payments*).

27.2 **Redistribution of payments**

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) in accordance with Clause 28.5 (*Partial payments*).

27.3 **Recovering Finance Party's rights**

(a) On a distribution by the Agent under Clause 27.2 (*Redistribution of payments*), the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in the redistribution.

(b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the relevant Obligor shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

27.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

(a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 27.2 (*Redistribution of payments*) shall, upon request of the Agent, pay to the Agent for account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay); and

(b) that Recovering Finance Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Finance Party for the amount so reimbursed.

27.5 **Exceptions**

(a) This Clause 27 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause 27, have a valid and enforceable claim against the relevant Obligor.

(b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

(i) it notified that other Finance Party of the legal or arbitration proceedings; and

(ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

SECTION 11
ADMINISTRATION

28. PAYMENT MECHANICS

28.1 Payments to the Agent

(a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payments by Obligors or Lenders shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London) with such bank as the Agent specifies.

28.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 28.3 (*Distributions to an Obligor*), Clause 28.4 (*Clawback*) and Clause 25.17 (*Deduction from amounts payable by the Agent*) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London).

28.3 Distributions to an Obligor

The Agent may (with the consent of the Obligor or in accordance with Clause 29 (*Set-off*) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

28.4 Clawback

(a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

(b) If the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

28.5 **Partial payments**

(a) If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor under the Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:

(i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of the Agent and the Arranger under the Finance Documents;

(ii) **secondly**, in or towards payment pro rata of any accrued interest, fee or commission due but unpaid under this Agreement;

(iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under this Agreement; and

(iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

(b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.

(c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

28.6 **No set-off by Obligors**

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

28.7 **Business Days**

(a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

28.8 **Currency of account**

(a) Subject to paragraphs (b) to (e) below, the Base Currency is the currency of account and payment for any sum due from an Obligor under any Finance Document.

(b) A repayment of a Utilisation or Unpaid Sum or a part of a Utilisation or Unpaid Sum shall be made in the currency in which that Utilisation or Unpaid Sum is denominated on its due date.

(c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

(d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

(e) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

28.9 **Change of currency**

(a) Unless otherwise prohibited by law or regulation, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrower); and

(ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other rounded up or down by the Agent (acting reasonably).

(b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

29. SET-OFF

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

30. NOTICES

30.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter or (in accordance with Clause 30.5 (*Electronic Communication*)) by email.

30.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

(a) in the case of the Borrower:

Address:	Amsteldijk 166 1079LH Amsterdam The Netherlands
Fax:	(31) 20 644-4095
Attention:	Managing Director(s);

(b) in the case of each Lender, or any other Obligor, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and

(c) in the case of the Agent:

Address:	2 Penn's Way Suite 200 New Castle, DE 19720
Fax:	212-994-0961
Attention:	Medium Term Finance / Agency,

or any substitute address or fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

30.3 **Delivery**

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(i) if by way of fax, when received in legible form; or

(ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 30.2 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's signature below (or any substitute department or officer as the Agent shall specify for this purpose).

(c) All notices from or to an Obligor shall be sent through the Agent. The Borrower may make and/or deliver as agent of each Obligor notices and/or requests on behalf of each Obligor.

(d) Any communication or document made or delivered to the Borrower in accordance with this Clause 30.3 will be deemed to have been made or delivered to each of the Obligors.

30.4 **Notification of address and fax number**

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to Clause 30.2 (*Addresses*) or changing its own address or fax number, the Agent shall notify the other Parties.

30.5 **Electronic communication**

(a) Any communication to be made between the Agent and a Lender and/or any member of the Group under or in connection with the Finance Documents may be made by electronic mail or other electronic means, if the Agent and the relevant Lender and/or member of the Group:

(i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;

(ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

(iii) notify each other of any change to their address or any other such information supplied by them.

(b) Any electronic communication made between the Agent and a Lender and/or any member of the Group will be effective only when actually received in readable form and in the case of any electronic communication made by a Lender and/or any member of the Group to the Agent only if it is addressed in such a manner as the Agent shall specify for this purpose.

30.6 **English language**

(a) Any notice given under or in connection with any Finance Document must be in English.

(b) All other documents provided under or in connection with any Finance Document must be:

(i) in English or Spanish; or

(ii) if not in English or Spanish and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

30.7 **Obligor Agent**

(a) Each Obligor (other than the Borrower) by its execution of this Agreement or an Accession Letter (as the case may be) irrevocably appoints the Borrower to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises (i) the Borrower on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions (including, in the case of a Borrower, Utilisation Requests, Renewal Requests or Selection Notices), to execute on its behalf any documents required hereunder and to make such agreements capable of being

given or made by any Obligor notwithstanding that they may affect such Obligor, without further reference to or consent of such Obligor; and (ii) each Finance Party to give any notice, demand or other communication to such Obligor pursuant to the Finance Documents to the Borrower on its behalf, and in each case such Obligor shall be bound thereby as though such Obligor itself had given such notices and instructions (including, without limitation, any Utilisation Requests, Renewal Requests or Selection Notices) or executed or made such agreements or received any notice, demand or other communication.

(b) Every act, agreement, undertaking, settlement, waiver, notice or other communication given or made by the Borrower, or given to the Borrower, in its capacity as agent in accordance with paragraph (a) of this Clause 30.7, in connection with this Agreement shall be binding for all purposes on such Obligors as if the other Obligors had expressly made, given or concurred with the same. In the event of any conflict between any notices or other communications of the Borrower and any other Obligor, those of the Borrower shall prevail.

30.8 **Use of Websites**

(a) The Borrower may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the " **Website Lenders**") who accept this method of communication by posting this information onto an electronic website designated by the Borrower and the Agent (the "**Designated Website**") if:

(i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;

(ii) both the Borrower and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and

(iii) the information is in a format previously agreed between the Borrower and the Agent.

If any Lender (a "**Paper Form Lender**") does not agree to the delivery of information electronically then the Agent shall notify the Borrower accordingly and the Borrower shall supply the information to the Agent in paper form. In any event the Borrower shall supply the Agent with at least one copy in paper form of any information required to be provided by it.

(b) The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Borrower and the Agent.

(c) The Borrower shall promptly upon becoming aware of its occurrence notify the Agent if:

(i) the Designated Website cannot be accessed due to technical failure;

(ii) the password specifications for the Designated Website change;

(iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;

(iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or

(v) the Borrower becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Borrower notifies the Agent under paragraph (c)(i) or paragraph (c)(v) above, all information to be provided by the Borrower under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

(d) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Borrower shall comply with any such request within ten Business Days.

31. CALCULATIONS AND CERTIFICATES

31.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

31.2 Certificates and Determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

31.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days, or where the interest, commission or fee is to accrue in respect of any amount denominated in sterling, 365 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

31.4 No personal liability

If an individual signs a certificate on behalf of any member of the Group and the certificate proves to be incorrect, the individual will incur no personal liability as a result, unless the individual acted fraudulently in giving the certificate. In this case any liability of the individual will be determined in accordance with applicable law.

32. PARTIAL INVALIDITY

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the laws or regulations of any other jurisdiction will in any way be affected or impaired.

33. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law or regulation.

34. AMENDMENTS AND WAIVERS

34.1 Required consents

(a) Subject to Clause 34.2 (*Exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Borrower and any such amendment or waiver will be binding on all Parties.

(b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause.

(c) The Borrower may effect, as agent of each Obligor, any amendment or waiver permitted by this Clause 34.

34.2 Exceptions

(a) An amendment or waiver that has the effect of changing or which relates to:

(i) the definition of "Majority Lenders" or "Optional Currency" in Clause 1.1 (*Definitions*);

(ii) an extension to the date of payment of any scheduled payment of any amount under the Finance Documents;

(iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;

(iv) a change in currency of payment of any amount under the Finance Documents;

(v) an increase in or an extension of any Commitment;

(vi) a change to the Borrower or any of the Guarantors other than in accordance with Clause 24 (*Changes to the Obligors*);

(vii) any provision which expressly requires the consent of all the Lenders; or

(viii) Clause 2.2 (*Finance Parties' rights and obligations*), Clause 18 (*Guarantee and Indemnity*), Clause 23 (*Changes to the Lenders*), Clause 24 (*Changes to the Obligors*) or this Clause 34,

shall not be made without the prior consent of all the Lenders.

(b) An amendment or waiver which relates to the rights or obligations of the Agent or the Arranger, may not be effected without the consent of the Agent or the Arranger at such time.

35. **COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

SECTION 12
GOVERNING LAW AND ENFORCEMENT

36. GOVERNING LAW

36.1 This Agreement is governed by English law.

36.2 If the Borrower or any of the Original Guarantors is represented by an attorney or attorneys in connection with the signing and/or execution and/or delivery of this Agreement or any agreement or document referred to herein or made pursuant hereto and the relevant power or powers of attorney is or are expressed to be governed by the laws and regulations of a particular jurisdiction, it is hereby expressly acknowledged and accepted by the other parties hereto that such laws and regulations shall govern the existence and extent of such attorney's or attorney's authority and the effects of the exercise thereof.

37. ENFORCEMENT

37.1 **Jurisdiction of English Courts**

(a) Each of the parties hereto irrevocably submits to the jurisdiction of the courts of England and to the jurisdiction of the courts of its own domicile with respect to any action initiated against it, to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (a "**Dispute**").

(b) the Parties agree that such courts are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) To the extent allowed by law or regulation, the Finance Parties may take proceedings related to a Dispute in any other courts with jurisdiction or concurrent proceedings in any number of jurisdictions.

37.2 **Service of process**

Without prejudice to any other mode of service allowed under any relevant law or regulation, each Obligor (other than an Obligor incorporated in England and Wales):

(a) shall irrevocably appoint the Process Agent as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document and shall procure that the Process Agent confirms its acceptance of that appointment in writing on or before the date of this Agreement; and

(b) agrees that failure by the Process Agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.

38. WAIVER OF SOVEREIGN IMMUNITY

To the extent that CEMEX Parent or any Obligor has acquired or hereafter may acquire 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, or otherwise) with respect to itself or its property, CEMEX Parent or the relevant Obligor, as the case may be, hereby irrevocably waives such immunity in respect of its obligations

hereunder to the extent permitted by applicable law. Without limiting the generality of the foregoing, CEMEX Parent and each Obligor agrees that the waivers set forth in this Clause 38 shall have force and effect to the fullest extent permitted under the Foreign Sovereign Immunities Act of 1976 of the United States and are intended to be irrevocable for the purposes of such Act.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1
THE ORIGINAL PARTIES

Part I
The Original Obligors

Part IA

Name of Borrower	Registration number (or equivalent, if any)
New Sunward Holding B.V.	34133556

Address for delivery of Notices:

Amsteldijk 166,
1079LH Amsterdam,
The Netherlands

Tel: (31) 20 642-2048
Fax: (31) 20 644-4095
Attn: Managing Director(s)

Part IB

Name of Original Guarantors	Registration numbers (or equivalent, if any)
CEMEX, S.A.B. de C.V.	número 21, folios 157 a 186 vuelta, volumen 16, Libro No. 3, Segundo Auxiliar Escrituras de Sociedades Mercantiles, Sección de Comercio, 11 de junio de 1920, Registro Público de la Propiedad y del Comercio de Monterrey, Nuevo León

Address for delivery of Notices:

Ave. Ricardo Margáin Zozaya #325
Col. Valle del Campestre
San Pedro Garza García, N.L.
Mexico, 66265

Tel: (52 81) 8888-4115
Fax: (52 81) 8888-4415
Attn: Humberto Francisco Lozano Vargas

CEMEX México, S.A. de C.V.	número 55, folio 127, volumen 186, Libro No. 3, Segundo Auxiliar Escrituras de Sociedades Mercantiles, Sección de Comercio, 23 de agosto de 1968, Registro Público de la Propiedad y del Comercio de Monterrey, Nuevo León

Address for delivery of Notices:

Ave. Ricardo Margáin Zozaya #325
Col. Valle del Campestre
San Pedro Garza García, N.L.
Mexico, 66265

Tel: (52 81) 8888-4115
Fax: (52 81) 8888-4415
Attn: Humberto Francisco Lozano Vargas

Empresas Tolteca de México, S.A. de C.V.

Número 1508, folio 241, volumen 321, Libro No. 3, Segundo Auxiliar Escrituras de Sociedades Mercantiles, Sección de Comercio, 22 de septiembre de 1989, Registro Público de la Propiedad y del Comercio de Monterrey, Nuevo León

Address for delivery of Notices:

Ave. Ricardo Margáin Zozaya # 325
Col. Valle del Campestre
San Pedro Garza García, N.L.
Mexico 66265

Tel: (52 81) 8888-4115
Fax: (52 81) 8888-4415
Attn: Humberto Lozano

Part II
The Original Lenders

As at the Amendment No. 3 Effective Date

Name of Original Lender	Facility B Commitment US$
Banco Bilbao Vizcaya Argentaria, S.A.	34,916,666.67
BNP Paribas	31,166,666.67
Citibank, N.A. Nassau Bahamas Branch	34,916,666.67
Calyon Sucursal en España	24,250,000
ING Bank N.V.	24,250,000
JPMorgan Chase Bank	24,250,000
Lloyds TSB Bank plc	24,250,000
Mizuho Corporate Bank, Ltd	24,250,000
Santander Overseas Bank Inc.	24,250,000
The Royal Bank of Scotland plc	24,250,000
Wachovia Bank, National Association	24,250,000
The Bank of Tokyo-Mitsubishi UFJ, Ltd.	15,000,000
Fortis Bank S.A./N.V.	15,000,000
Banco de Sabadell, S.A.	10,000,000
Bank of America, N.A.	7,500,000
The Governor and Company of the Bank of Ireland	7,500,000
TOTALS (US$)	**350,000,000**

SCHEDULE 2
CONDITIONS PRECEDENT

Part I
Conditions Precedent to initial Utilisation

1. Obligors

(a) A copy of the current constitutional documents of each Obligor including copies certified by one director of the relevant company below of:

(i) the *akte van oprichting* and *statuten* of the Borrower and a copy of the extract from the trade register of Chamber of Commerce of Amsterdam;

(ii) the *estatutos sociales* in effect on the First Utilisation Date of each Guarantor; and

(iii) the power-of-attorney of each Person executing any Finance Document on behalf of any Obligor, together with specimen signatures of such Person.

(b) A power of attorney granting a specific individual or individuals sufficient power to sign the Finance Documents on behalf of each Original Obligor and in relation to the Borrower and CEMEX Parent, a copy of a resolution of the board of directors of the Borrower and CEMEX Parent:

(i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;

(ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and

(iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.

(c) A specimen of the signature of each person authorised by the resolution or power of attorney referred to in paragraph (b) above in relation to the Finance Documents.

(d) A certificate of each of the Obligors (signed by an Authorised Signatory) confirming that borrowing or guaranteeing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on any Obligor to be exceeded.

(e) A certificate of an Authorised Signatory of the relevant Obligor certifying that each copy document relating to it specified in this Part I of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

2. Legal opinions

(a) A legal opinion from Clifford Chance LLP, legal advisers to the Arranger and the Agent in England, as to English law substantially in the form distributed to the Original Lenders prior to signing this Agreement satisfactory to the Lenders.

(b) An opinion with respect to the laws and regulations of The Netherlands from Warendorf, substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(c) An opinion with respect to the laws and regulations of Mexico from Ritch, Heather & Mueller, S.C., substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(d) An opinion from in-house counsel of the Borrower, substantially in the form distributed to the Original Lenders prior to signing the Agreement.

3. Other documents and evidence

(a) A copy of this Agreement, duly executed and delivered by each Party.

(b) A copy of the Notes evidencing the Loans to be made on the First Utilisation Date, executed and delivered by the Borrower and each Guarantor, in favour of each Lender.

(c) True and current copies of:

(i) audited consolidated financial statements of each of CEMEX Parent and its Subsidiaries and CEMEX Spain and its Subsidiaries for the 2004 fiscal year;

(ii) audited unconsolidated financial statements of the Borrower and each Guarantor other than CEMEX Parent for the 2004 fiscal year; and

(iii) unaudited unconsolidated interim financial statements of the Borrower and each Guarantor other than CEMEX Parent for the quarter ended 31 March 2005.

(d) A notice of prepayment and cancellation relating to all loans outstanding, and facilities available, under the Existing NSH Agreement, specifying the First Utilisation Date as the date on which such prepayment and cancellation is to take effect.

(e) Evidence that CEMEX UK Limited has accepted its appointment as the Obligors' process agent to receive service of process in relation to any proceedings before the English Courts in connection with any Finance Document.

Part II
Conditions Precedent required to be delivered by an Additional Guarantor

1. **Obligors**

(a) An Accession Letter, duly executed by the Additional Guarantor and the Borrower.

(b) A copy of the constitutional documents of the Additional Guarantor.

(c) A copy of a resolution of the board of directors of the Additional Guarantor:

(i) approving the terms of, and the transactions contemplated by, the Accession Letter and this Agreement and resolving that it execute the Accession Letter;

(ii) authorising a specified person or persons to execute the Accession Letter on its behalf; and

(iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with this Agreement.

(d) A specimen of the signature of each person authorised by the resolution referred to in paragraph (c) above.

(e) Should the legal advisers of the Lenders consider it advisable, a copy of a resolution signed by all the holders of the issued shares of the Additional Guarantor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Guarantor is a party.

(f) A certificate of the Additional Guarantor (signed by an Authorised Signatory) confirming that guaranteeing the Total Commitments would not cause any guaranteeing or similar limit binding on it to be exceeded.

(g) A certificate of an Authorised Signatory of the Additional Guarantor certifying that each copy document listed in this Part II of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of the Accession Letter.

2. **Legal opinions**

(a) A legal opinion of the legal advisers to the Additional Guarantor in form and substance reasonably satisfactory to the legal advisers of the Lenders.

(b) A legal opinion of Clifford Chance, or other firm that can opine for the Additional Guarantor if not Clifford Chance, legal advisers to the Lenders.

3. **Other documents and evidence**

(a) Evidence that any process agent referred to in Clause 37.2 (*Service of process*) has accepted its appointment.

(b) A copy of any other Authorisation or other document, opinion or assurance which the Agent considers (after having taken appropriate legal advice) to be necessary or desirable (if it has notified the Additional Guarantor and the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

(c) The Original Financial Statements of the Additional Guarantor.

SCHEDULE 3
REQUESTS

Part I
Utilisation Request

From: [Borrower]

To: [Agent]

Dated:

Dear Sirs

CEMEX - $700,000,000 Term and Revolving Facilities Agreement
dated 2005 (the "Agreement")

1. We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.

2. We wish to borrow a Loan on the following terms:

Proposed Utilisation Date:	[ ] (or, if that is not a Business Day, the next Business Day)
Facility to be utilised:	[Facility A]/[Facility B]*
Currency of Loan:	[ ]
Amount:	[ ] or, if less, the Available Facility
Interest Period:	[ ]

3. We confirm that, to the extent applicable, each condition specified in Clause 4.2 (*Further conditions precedent*) is satisfied or waived on the date of this Utilisation Request.

4. The proceeds of this Loan should be credited to [*account*].

5. This Utilisation Request is irrevocable.

6. Terms used in this Utilisation Request which are not defined in this Utilisation Request but are defined in the Agreement shall have the meaning given to those terms in the Agreement.

Yours faithfully

_____
authorised signatory for
[New Sunward Holding B.V.]

NOTES:

* delete as appropriate

Part II
Selection Notice

From: [Borrower]

To: [Agent]

Dated:

Dear Sirs

CEMEX - $700,000,000 Term and Revolving Facilities Agreement
dated 2005 (the "Agreement")

1. We refer to the Agreement. This is a Selection Notice. Terms defined in the Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.

2. We refer to the Facility A Loan with an Interest Period ending on [ ].

3. [We request that the above Facility A Loan be divided into [•] term loans with the following Interest Periods:]

   or

   [We request that the next Interest Period for the Facility A Loan is [ ].]

4. This Selection Notice is irrevocable.

5. Terms used in this Selection Notice which are not defined in this Selection Notice but are defined in the Agreement shall have the meaning given to those terms in the Agreement.

Yours faithfully

_____
authorised signatory for
[New Sunward Holding B.V.]

SCHEDULE 4
MANDATORY COST FORMULAE

1. The Mandatory Cost is an addition to the interest rate to compensate Lenders for the cost of compliance with (a) the requirements of the Bank of England and/or the Financial Services Authority (or, in either case, any other authority which replaces all or any of its functions) or (b) the requirements of the European Central Bank.

2. On the first day of each Interest Period (or as soon as possible thereafter) the Agent shall calculate, as a percentage rate, a rate (the " **Additional Cost Rate**") for each Lender, in accordance with the paragraphs set out below. The Mandatory Cost will be calculated by the Agent as a weighted average of the Lenders' Additional Cost Rates (weighted in proportion to the percentage participation of each Lender in the relevant Loan) and will be expressed as a percentage rate per annum.

3. The Additional Cost Rate for any Lender lending from a Facility Office in a Participating Member State will be the percentage notified by that Lender to the Agent. This percentage will be certified by that Lender in its notice to the Agent to be its reasonable determination of the cost (expressed as a percentage of that Lender's participation in all Loans made from that Facility Office) of complying with the minimum reserve requirements of the European Central Bank in respect of loans made from that Facility Office.

4. The Additional Cost Rate for any Lender lending from a Facility Office in the United Kingdom will be calculated by the Agent as follows:

   (a) in relation to a sterling Loan:

   $$\frac{AB+C(B-D)+E \times 0.01}{100-(A+C)}$$ per cent. per annum.

   (b) in relation to a Loan in any currency other than sterling:

   $$\frac{E \times 0.01}{300}$$ per cent. per annum.

   Where:

   A is the percentage of Eligible Liabilities (assuming these to be in excess of any stated minimum) which that Lender is from time to time required to maintain as an interest free cash ratio deposit with the Bank of England to comply with cash ratio requirements.

   B is the percentage rate of interest (excluding the Margin and the Mandatory Cost and, if the Loan is an Unpaid Sum, the additional rate of interest specified in paragraph (a) of Clause 9.3 (*Default interest*)) payable for the relevant Interest Period on the Loan.

C is the percentage (if any) of Eligible Liabilities which that Lender is required from time to time to maintain as interest bearing Special Deposits with the Bank of England.

D is the percentage rate per annum payable by the Bank of England to the Agent on interest bearing Special Deposits.

E is designed to compensate Lenders for amounts payable under the Fees Rules and is calculated by the Agent as being the average of the most recent rates of charge supplied by the Reference Banks to the Agent pursuant to paragraph 6 below and expressed in pounds per £1,000,000.

5. For the purposes of this Schedule:

(a) "**Eligible Liabilities**" and "**Special Deposits**" have the meanings given to them from time to time under or pursuant to the Bank of England Act 1998 or (as may be appropriate) by the Bank of England;

(b) "**Fees Rules**" means the rules on periodic fees contained in the FSA Supervision Manual or such other law or regulation as may be in force from time to time in respect of the payment of fees for the acceptance of deposits;

(c) "**Fee Tariffs**" means the fee tariffs specified in the Fees Rules under the activity group A.1 Deposit acceptors (ignoring any minimum fee or zero rated fee required pursuant to the Fees Rules but taking into account any applicable discount rate); and

(d) "**Tariff Base**" has the meaning given to it in, and will be calculated in accordance with, the Fees Rules.

6. In application of the above formulae, A, B, C and D will be included in the formulae as percentages (i.e. 5 per cent. will be included in the formula as 5 and not as 0.05). A negative result obtained by subtracting D from B shall be taken as zero. The resulting figures shall be rounded to four decimal places.

7. If requested by the Agent, each Reference Bank shall, as soon as practicable after publication by the Financial Services Authority, supply to the Agent, the rate of charge payable by that Reference Bank to the Financial Services Authority pursuant to the Fees Rules in respect of the relevant financial year of the Financial Services Authority (calculated for this purpose by that Reference Bank as being the average of the Fee Tariffs applicable to that Reference Bank for that financial year) and expressed in pounds per £1,000,000 of the Tariff Base of that Reference Bank.

8. Each Lender shall supply any information required by the Agent for the purpose of calculating its Additional Cost Rate. In particular, but without limitation, each Lender shall supply the following information on or prior to the date on which it becomes a Lender:

(a) the jurisdiction of its Facility Office; and

(b) any other information that the Agent may reasonably require for such purpose.

Each Lender shall promptly notify the Agent of any change to the information provided by it pursuant to this paragraph.

9. The percentages of each Lender for the purpose of A and C above and the rates of charge of each Reference Bank for the purpose of E above shall be determined by the Agent based upon the information supplied to it pursuant to paragraphs 7 and 8 above and on the assumption that, unless a Lender notifies the Agent to the contrary, each Lender's obligations in relation to cash ratio deposits and Special Deposits are the same as those of a typical bank from its jurisdiction of incorporation with a Facility Office in the same jurisdiction as its Facility Office.

10. The Agent shall have no liability to any person if such determination results in an Additional Cost Rate which over or under compensates any Lender and shall be entitled to assume that the information provided by any Lender or Reference Bank pursuant to paragraphs 3, 7 and 8 above is true and correct in all respects.

11. The Agent shall distribute the additional amounts received as a result of the Mandatory Cost to the Lenders on the basis of the Additional Cost Rate for each Lender based on the information provided by each Lender and each Reference Bank pursuant to paragraphs 3, 7 and 8 above.

12. Any determination by the Agent pursuant to this Schedule in relation to a formula, the Mandatory Cost, an Additional Cost Rate or any amount payable to a Lender shall, in the absence of manifest error, be conclusive and binding on all Parties.

13. The Agent may from time to time, after consultation with the Borrower and the Lenders, determine and notify to all Parties any amendments which are required by such Lender to be made to this Schedule in order to comply with any change in law or regulation or any requirements from time to time imposed by the Bank of England, the Financial Services Authority or the European Central Bank (or, in any case, any other authority which replaces all or any of its functions) and any such determination shall, in the absence of manifest error, be conclusive and binding on all Parties.

SCHEDULE 5
FORM OF TRANSFER CERTIFICATE

To: [Agent]

From: [*The Existing Lender*] (the "**Existing Lender**") and [*The New Lender*] (the "**New Lender**")

Dated:

CEMEX - $700,000,000 Term and Revolving Facilities Agreement dated 2005 (the "Agreement")

1. We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.

2. We refer to Clause 23.5 (*Procedure for transfer*):

   (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation all or part of the Existing Lender's Commitment, rights and obligations referred to in the schedule to this certificate in accordance with Clause 23.5 (*Procedure for transfer*).

   (b) The proposed Transfer Date is [ ].

   (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 30.2 (*Addresses*) are set out in the schedule to this certificate.

3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 23.4 (*Limitation of responsibility of Existing Lenders*).

4. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.

5. We confirm that we have carried out and are satisfied with the results of all compliance checks we consider necessary in relation to our participation in the Facilities.

6. This Transfer Certificate is governed by English law.

THE SCHEDULE

Commitment/rights and obligations to be transferred

[*insert relevant details*]
[*Facility Office address, email, fax number and attention details for notices and account details for payments*,]

[Existing Lender]	[New Lender]
By:	By:

This Transfer Certificate is accepted by the Agent and the Transfer Date is confirmed as [•].

[Agent]

SCHEDULE 6
FORM OF COMPLIANCE CERTIFICATE

To: [Agent]

From: [Borrower]

Dated:

Dear Sirs

CEMEX - $700,000,000 Term and Revolving Facilities Agreement dated 2005 (the "Agreement")

1. We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2. We confirm that:

   (a) Pursuant to Clause 21.13 (*Financial condition covenants*) the financial condition of the Group as of [ ] evidenced by the consolidated financial statements for the financial year/first half/second half of the financial year then ended comply with the following conditions:

   [•]

   (b) As at the date of this Certificate the following Subsidiaries of the Group fall within the definition of Material Subsidiaries as set out in Clause 1.1 (*Definitions*):

3. We confirm that no Default is continuing.[1]

Signed: _____

Authorised Signatory of New Sunward Holding B.V.

[1] If a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and the action that the Borrower has taken and proposes to take with respect thereto.

SCHEDULE 7
FORM OF CONFIDENTIALITY UNDERTAKING

[Letterhead of Existing Bank]

To:

[insert name of Potential Lender]

Re: **The Facilities**

Company: CEMEX España, S.A. (the "**Company**")
Date:
Amount: US$[•] and €[•]
Agent: The Royal Bank of Scotland plc

Dear Sirs

We understand that you are considering participating in the Facilities. In consideration of us agreeing to make available to you certain information, by your signature of a copy of this letter you agree as follows:

1. *Confidentiality Undertaking*: You undertake:

   (a) to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by paragraph 2 below and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information;

   (b) to keep confidential and not disclose to anyone except as provided for by paragraph 2 below the fact that the Confidential Information has been made available or that discussions or negotiations are taking place or have taken place between us in connection with the Facilities;

   (c) to use the Confidential Information only for the Permitted Purpose;

   (d) to use all reasonable endeavours to ensure that any person to whom you pass any Confidential Information (unless disclosed under paragraph 2(b) below) acknowledges and complies with the provisions of this letter as if that person were also a party to it; and

(e) not to make enquiries of any member of the Group or any of their officers, directors, employees or professional advisers relating directly or indirectly to the Facilities.

2. *Permitted Disclosure*: We agree that you may disclose such Confidential Information and such of those matters referred to in paragraph 1(b) above to the extent necessary for the Permitted Purpose:

(a) to members of the Participant Group and their officers, directors, employees, professional advisers and auditors if any person to whom the Confidential Information is to be given pursuant to this paragraph 2(a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information, except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

(b) in the event that you become a Lender under the Agreement, in accordance with and subject to the terms of clause 23.7 of the Agreement;

(c) to any person to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation; or

(d) with the prior written consent of us and the Company.

3. *Notification of Disclosure*: You agree (to the extent permitted by law and regulation) to inform us:

(a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph 2(c) above except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

(b) upon becoming aware that Confidential Information has been disclosed in breach of this letter.

4. *Return of Copies*: If we so request in writing, you shall return all Confidential Information supplied to you by us and destroy or permanently erase (to the extent technically practicable) all copies of Confidential Information made by you and use all reasonable endeavours to ensure that anyone to whom you have supplied any Confidential Information destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy, or where the Confidential Information has been disclosed under paragraph 2(c) above.

5. *Continuing Obligations*: The obligations in this letter are continuing and, in particular, shall survive the termination of any discussions or negotiations between you and us. Notwithstanding the previous sentence, the obligations in this letter shall cease on the earlier of (a) the date on which you become a party to the Facility Agreement or (b) twelve months after the date at which you have returned all Confidential Information supplied to you by us and destroyed or permanently erased (to the extent technically practicable) all copies of Confidential Information made by you (other than any such Confidential Information or copies which have been disclosed under paragraph 2 above (other than paragraph 2(a)) or which, pursuant to paragraph 4 above, are not required to be returned or destroyed.

6. *No Representation; Consequences of Breach, etc*: You acknowledge and agree that:

   (a) neither we nor any member of the Group nor any of our or their respective officers, employees or advisers (each a " **Relevant Person**") (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by us or any member of the Group or the assumptions on which it is based or (ii) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or any member of the Group or be otherwise liable to you or any other person in respect of the Confidential Information or any such information; and

   (b) we or members of the Group may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person or member of the Group may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

7. *Entire Agreement*: This letter constitutes the entire agreement between us in relation to your obligations regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

8. *No Waiver*: No failure or delay in exercising any right or remedy under this letter will operate as a waiver thereof nor will any single or partial exercise of any right or remedy preclude any further exercise thereof or the exercise of any other right or remedy under this letter.

9. *Amendments, etc*: The terms of this letter and your obligations under this letter may only be amended or modified by written agreement between us.

10. *Inside Information*: You acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and you undertake not to use any Confidential Information for any unlawful purpose.

11. *Nature of Undertakings*: The undertakings given by you under this letter are given to us and (without implying any fiduciary obligations on our part) are also given for the benefit of the Company and each other member of the Group.

12. *Third party rights*: Subject to this paragraph 12 and to paragraphs 6 and 9, a person who is not a party to this letter has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this letter.

    (a) The Relevant Persons and each member of the Group may enjoy the benefit of the terms of paragraphs 6 and 9 subject to and in accordance with this paragraph 12 and the provisions of the Third Parties Act.

    (b) Notwithstanding any provisions of this letter, the parties to this letter do not require the consent of any Relevant Person or any member of the Group to rescind or vary this letter at any time.

13. *Governing Law and Jurisdiction*:

    (a) This letter (including the agreement constituted by your acknowledgement of its terms) and all non-contractual obligations arising from or connected with it are governed by and shall be construed in accordance with English law.

    (b) The parties submit to the non-exclusive jurisdiction of the English courts.

14. *Definitions*: In this letter (including the acknowledgement set out below):

"**Confidential Information**" means all information relating to the Company, any Obligor, the Group, the Finance Documents and/or the Facilities which is provided to you in relation to the Finance Documents or Facilities by us or any of our affiliates or advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

(a) is or becomes public information other than as a direct or indirect result of any breach of this letter;

(b) is identified in writing at the time of delivery as non-confidential by us or our advisers; or

(c) is known by you before the date the information is disclosed to you by us or any of our affiliates or advisers or is lawfully obtained by you after that date, from a source which is, as far as you are aware, unconnected with the Group and which, in either case, as far as you are aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

"**Facility Agreement**" means the facility agreement entered into or to be entered into in relation to the Facilities.

"**Finance Documents**" means the documents defined in the Facility Agreement as Finance Documents.

"**Group**" means the Company, each of its holding companies and its subsidiaries and each of the subsidiaries of each of its holding companies for the time being (as each such term is defined in the Companies Act 2006).

"**Obligor**" means a borrower or a guarantor under the Facility Agreement.

"**Participant Group**" means you, each of your holding companies and subsidiaries and each subsidiary of each of your holding companies (as each such term is defined in the Companies Act 2006).

"**Permitted Purpose**" means considering and evaluating whether to enter into the Facilities.

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

For and on behalf of

[Existing Bank]

To: ***[Existing Bank]***
The Company and each other member of the Group

We acknowledge and agree to the above:

_____

For and on behalf of
[Potential Lender]

SCHEDULE 8
TIMETABLE

	Loans in euro, dollars, yen or sterling	Loans in other currencies
Agent notifies the Borrower if a currency is approved as an Optional Currency in accordance with Clause 4.3 (*Conditions relating to Optional Currencies*)	-	U-4
Delivery of a duly completed Utilisation Request (Clause 5.1 (*Delivery of a Utilisation Request*)) or a Selection Notice (Clause 10.1 (*Selection of Interest Periods*))	U-3 11.00am	U-3 11.00am
Agent determines (in relation to a Utilisation) the Base Currency Amount of the Loan, if required under paragraph (c) of Clause 5.4 (*Lenders' participation*) and notifies the Lenders of the Loan in accordance with Clause 5.4 (*Lenders' participation*)	U-3 3.00pm	U-3 3.00pm
Agent receives a notification from a Lender under Clause 6.2 (*Unavailability of a currency*)	U-2 9.30am	U-2 9.30am
Agent gives notice in accordance with Clause 6.2 (*Unavailability of a currency*)	U-2 10.30am	U-2 10.30am
LIBOR or EURIBOR is fixed	Quotation Day as of 11:00am New York time in respect of LIBOR and as of 11.00am New York time in respect of EURIBOR	Quotation Day as of 11:00am New York time in respect of LIBOR

"U" = date of utilisation
"U-X" = X Business Days prior to date of utilisation

SCHEDULE 9
FORM OF ACCESSION LETTER

To: [Agent]

From: [Borrower]

Dated:

Dear Sirs

CEMEX -$700,000,000 Term and Revolving Facilities Agreement
dated 2005 (the "Agreement")

1. [*Additional Guarantor*] agrees to become an Additional Guarantor and to be bound by the terms of the Facility Agreement as an Additional Guarantor pursuant to Clause 24 (*Changes to the Obligors*) of the Facility Agreement. [*Additional Guarantor*] is a company duly incorporated under the laws and regulations of [*name of relevant jurisdiction*].

2. [*Additional Guarantor's*] administrative details are as follows:

   Address:

   Fax No:

   Attention:

3. This Accession Letter is governed by English law and is entered into by deed.

Signed: _____ *Signed:* _____

[Authorised Signatory of Additional Guarantor] *[Authorised Signatory of New Sunward Holding BV]*

SCHEDULE 10
PERMITTED LIENS

CEMEX, S.A.B. de C.V.
LIEN SCHEDULE
(Figures in millions of US Dollars)

NAME OF CEMEX SUBSIDIARY	COUNTERPARTY	LIEN CONCEPT	Nov 08	AGREEMENT TYPE
CEMEX, Inc.	Hampton	Land related with a Promissory Note	$ 0.033	Promissory Note between Mr. Paul E. Hampton, Jr. and wife and Cemex, Inc., dated October 31, 1985.
RMC Beton Śląsk Sp. z o.o.	SG Equipment Leasing Polska Sp. z o.o.	Plant Equipment Lien	$ 1.884	Equipment Leasing Agreement by and between SG Equipment Leasing Polska Sp. z o.o. RMC Beton Śląsk Sp. z o.o. and dated June 23rd, 2006.
CEMEX BETONS CENTRE et BRETAGNE	CITICAPITAL	Plant Equipment Lien	$ 0.007	Leasing Agreement CITICAPITAL - BETON DE FRANCE CENTRE ET BRETAGNE dated June 30, 2002.
CEMEX GRANULATS RHONE-MEDITERRANEE	SLIBAIL IMMOBILIER	Plant Equipment Lien	$0.698	Leasing Agreement by and between "SLIBAIL IMMOBILIER" and "MORRILLON CORVOL RHONE MEDITERRANEE dated July 24, 2000.
CEMEX BETONS NORD QUEST	SLIBAIL IMMOBILIER	Plant Equipment Lien	$ 0.123	Leasing Agreement by and between SLIBAIL IMMOBILIER -SAS BETON DE FRANCE NORMANDIE dated June 03 2002.
ETABLISSEMENT CHARROY	BAIL ACTEA	Plant Equipment Lien	$ 0.035	Leasing Agreement by and between BAIL ACTEA - SA Ets CHARROY dated August 28 2003.
Cemex SIA	Disko Leasing GmbH	Plant Equipment Lien	$ 0.083	Leasing Agreement between DISKO Leasing und Bank für Investitionsfinanzierung - Readymix Kies & Beton AG, dated March 1st, 2000.
Transbeton Lieferbeton Gesellschaft m.b.H.	Raiffeisenbank Bruck an der Mur eg. Gen.	Plant Equipment Lien	$2.964	Leasing agreement on movables entered by and between Raiffeisen-Leasing Mobilien und KFZ GmbH and Trans-Beton Ges.m.b.H. dated March 31, 2004.
Quarzsandwerk Wellmersdorf GmbH & Co. KG	Raiffeisenbank Obermain Nord eG	Land Lien	$ 0.037	Leasing Agreement by and between Quarzsandwerk Wellmersdorf GmbH & Co. KG and Raiffeisenbank Obermain Nord eG dated March 8, 1999.
CEMEX Kies Hamburg GmbH & Co. KG	Kreissparkasse Herzogfum Lauenburg	Land Lien	$ 0.247	Leasing Agreement Kreissparkasse Herzogfum Lauenburg - Wunder GmbH, Wunder Kiestransporte GmbH undGünter Wunder Baustoffhandel dated March 22, 1994.

NAME OF CEMEX SUBSIDIARY	COUNTERPARTY	LIEN CONCEPT	Nov 08	AGREEMENT TYPE
Cemex UK Operations Limited	ING Lease (UK) Limited	Plant Equipment Lien	$ 18.483	Leasing Master Agreement by and between Kleinworth Benson Fleet Finance Limited and Rombus Materials Limited dated December 31, 1997. Assignment and Continuation Schedule dated September 30, 2005 between ING Lease Fleet Finance Limited and Cemex UK Operations Ltd.
Cemex UK Operations Limited	Lloyds TSB Asset Finance	Plant Equipment Lien	$ 2.948	Lease Agreement by and between The Rugby Group PLC and UDT Budget Leasing Limited dated 21 of December 1998.
RMC Beton Śląsk Sp. z o.o.	Bankowy Fundusz Leasingowy S.A.	Plant Equipment Lien	$ 0.017	Leasing Agreement by and between Bankowy Fundusz Leasingowy, S.A. and RMC Beton Śląsk Sp. z o.o. dated March 11th, 2008.
Cemex S.A.B. de C.V. and Subsidiaries	Different Banks	Cash Collateral	$ 693.412	ISDA Agreements Different Banks Regarding Margin Calls in Derivatives Instruments
Cemex S.A.B. de C.V. and Subsidiaries	Banco Nacional de Comercio Exterior	Cemex, S.A.B. de C.V. and Cementos , Chihuahua, S.A.B. de C.V. shares	$ 250.000	Credit Agreement entered on October 14, 2008 Secured with a Stock Pledge
Cemex S.A.B.de C.V. and Cemex México, S.A. de C.V.	Nacional Financiera S.N.C.,	Cemex México's headquarters, Edificio Constitución # 444 in Monterrey, N.L	$ 52.985	Credit Agreement to issue the government guaranty (aval) on Cemex' short term Certificados Bursátiles entered on October 22, 2008.
		Total	$1,023.956	

SCHEDULE 11
LITIGATION

A description of material actions, suits, investigations, litigations or proceedings, including Environmental Actions, affecting Borrower or any of its Subsidiaries before any court, Governmental Authority or arbitrator is provided below.

Environmental Matters

United States

As of November 30, 2008, CEMEX, Inc. and its subsidiaries had accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately U.S.$42.6 million. The environmental matters relate to (i) the disposal of various materials, in accordance with past industry practice, which might be categorized as hazardous substances or wastes, and (ii) the cleanup of sites used or operated by CEMEX, Inc., including discontinued operations, regarding the disposal of hazardous substances or wastes, either individually or jointly with other parties. Most of the proceedings are in the preliminary stage, and a final resolution might take several years. For purposes of recording the provision, CEMEX, Inc. considers that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. Based on information available to date, CEMEX, Inc. does not believe it will be required to spend significant sums on these matters, in excess of the amounts previously recorded. The ultimate cost that might be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work, and negotiations with or litigation against potential sources of recovery have been completed.

CEMEX Construction Materials Florida, LLC f/k/a Rinker Materials of Florida, Inc. (" **CEMEX Florida**"), a subsidiary of CEMEX, Inc., holds one federal quarry permit and is the beneficiary of one of 10 other federal quarrying permits granted for the Lake Belt area in South Florida. The permit held by CEMEX Florida covers CEMEX Florida's SCL and FEC quarries. CEMEX Florida's Krome quarry is operated under one of the other federal quarry permits. The FEC quarry is the largest of CEMEX Floridas' quarries measured by volume of aggregates mined and sold. CEMEX Florida's Miami cement mill is located at the SCL quarry and is supplied by that quarry. A ruling was issued on March 22, 2006 by a judge of the U.S. District Court for the Southern District of Florida in connection with litigation brought by environmental groups concerning the manner in which the permits were granted. Although not named as a defendant, CEMEX Florida has intervened in the proceedings to protect its interests. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the relevant governmental agencies in connection with the issuance of the permits. The judge remanded the permits to the relevant governmental agencies for further review, which review the governmental agencies have indicated in a recent announcement should take until mid February 2009 to conclude. The judge also conducted further proceedings to determine the activities to be conducted during the remand period. In July 2007, the judge issued a ruling that halted certain quarrying operations at three non-CEMEX Florida quarries. The judge left in place CEMEX Florida's Lake Belt permits until the relevant government agencies complete their review. In a May 2008 ruling, the federal appellate court determined that the district court judge did not apply the proper standard of

review to the permit issuance decision of the governmental agency, vacated the district court's prior order, and remanded the proceeding to the district court to apply the proper standard of review; this review remains pending before the district court judge. If the Lake Belt permits are ultimately set aside or quarrying operations under them restricted, CEMEX Florida will need to source aggregates, to the extent available, from other locations in Florida or import aggregates. This would likely affect profits from our Florida operations. Any adverse impacts on the Florida economy arising from the cessation or significant restriction of quarrying operations in the Lake Belt could also have a material adverse effect on our financial results.

Europe

In Great Britain, future expenditure on closed and current landfill sites has been assessed and quantified over the period in which the sites are considered to have the potential to cause environmental harm, generally consistent with the regulator view of up to 60 years from the date of closure. The assessed expenditure relates to the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure. The costs have been quantified on a net present value basis in the amount of approximately £122 million, and an accounting provision for this sum has been made at December 31, 2007.

In 2003, the European Union adopted a directive implementing the Kyoto Protocol on climate change and establishing a greenhouse gas emissions allowance trading scheme within the European Union. The directive requires Member States to impose binding caps on carbon dioxide emissions from installations involved in energy activities, the production and processing of ferrous metals, the mineral industry (including cement production) and the pulp, paper or board production business. Under this scheme, companies with operations in these sectors receive from the relevant Member States allowances that set limitations on the levels of greenhouse gas emissions from their installations. These allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that are not reaching their emissions objectives. Companies can also use credits issued from the use of the flexibility mechanisms under the Kyoto protocol to fulfill their European obligations. These flexibility mechanisms provide that credits (equivalent to allowances) can be obtained by companies for projects that reduce greenhouse gas emissions in emerging markets. These projects are referred to as Clean Development Mechanism ("CDM") or joint implementation projects depending on the countries where they take place. Failure to meet the emissions caps is subject to heavy penalties.

Companies can also use, up to a certain level, credits issued under the flexible mechanisms of the Kyoto protocol to fulfill their European obligations. Credits for Emission Reduction projects obtained under these mechanisms are recognized, up to a certain level, under the European emission trading scheme as allowances. To obtain these emission reduction credits, companies must comply with very specific and restrictive requirements from the United Nations Convention on Climate Change (UNFCC).

As required by directive, each of the Member States established a National Allocations Plan, or NAP, setting out the allowance allocations for each industrial facility for Phase I, from 2005 to 2007. Based on the NAPs established by the Member States of the European Union for the 2005 to 2007 period and our actual production, on a consolidated basis after trading allowances between our operations in countries with a deficit of allowances and our operations in countries with an excess of allowances, and after some external operations, Borrower's Subsidiaries had a surplus of allowances of approximately 1,050,054 tons of carbon dioxide in this Phase I.

For Phase II, comprising 2008 through 2012, however, there has been a reduction in the allowances granted by the Member States that have already approved their NAP, which may result in a consolidated deficit in our carbon dioxide allowances during the period. We believe we may be able to reduce the impact of any deficit by either reducing carbon dioxide emissions in our facilities or by obtaining additional emission credits through the implementation of CDM projects. If we are not successful in implementing emission reductions in our facilities or obtaining credits from CDM projects, we may have to purchase a significant amount of emission credits in the market, because CEMEX has already sold a substantial amount of allowances for Phase II, the cost of which may have an impact on our operating results. As of December 1, 2008, the market value of carbon dioxide allowances for Phase II was approximately 15.45 € per ton. CEMEX is taking all the measures to minimize our exposure to this market while assuring the supply of our products to our clients.

The Spanish NAP has been finally approved by the Spanish Government, reflecting the conditions that were set forth by the European Commission. The allocations made to our installations allow us to foresee certain availability of allowances, nevertheless, there remains the uncertainty regarding the allocations that, against the reserve for new entrants, shall be requested for the new CEMEX cement plant in Andorra (Teruel), whose construction has been delayed, and that it is scheduled to start operating in 2010

On May 29, 2007, the Polish government filed an appeal before the Court of First Instance in Luxemburg regarding the European Commission's rejection of the initial version of the Polish NAP. The Court has denied Poland's request for a quick path verdict in the case, keeping the case in the regular proceeding path, therefore, the Polish government has started to prepare Polish internal rules on division of allowance at the level already accepted by the European Commission. Seven major Polish cement producers, representing 98% of Polish cement production (including CEMEX Polska), have also filed seven separate appeals before the Court of First Instance regarding the European Commission's rejection. On September 29, 2008 the Court of the First Instance issued an order rejecting CEMEX Polska's appeal without going into the merit of the case. As of December 4, 2008 the final version of the Polish NAP has not been cleared by the Commission; CEMEX's has not determined the impact this may have on CEMEX¨s position in the country.

Tax Matters

Pursuant to amendments to the Mexican income tax law (Ley del Impuesto sobre la Renta), which became effective on January 1, 2005, Mexican companies with direct or indirect investments in entities incorporated in foreign countries whose income tax liability in those countries is less than 75% of the income tax that would be payable in Mexico will be required to pay taxes in Mexico on passive income such as dividends, royalties, interest, capital gains and rental fees obtained by such foreign entities, provided that the income is not derived from entrepreneurial activities in such countries (income derived from entrepreneurial activities is not subject to tax under these amendments). We filed two motions in the Mexican federal courts challenging the constitutionality of the amendments. On June 29, 2006, we obtained a favorable ruling from the Mexican federal court stating that the amendments were unconstitutional. The

Mexican tax authority appealed the ruling, and the proceeding was attracted by the Mexican Supreme Court of Justice. On September 9, 2008, the Mexican Supreme Court ruled against CEMEX's constitutional challenge of the controlled foreign corporation tax rules in effect in Mexico for tax years 2005 to 2007. Since the Supreme Court's decision does not pertain to a specific tax assessment or other tax obligations, CEMEX will self-assess any taxes due through the submission of amended tax returns. CEMEX has not yet determined the amount of tax or the periods affected. Based on a preliminary estimate, CEMEX believes this amount will not be material, but no assurance can be given that additional analysis will not lead to a different conclusion. If the tax authorities do not agree with CEMEX's self-assessment, they may assess additional amounts, which may be material.

The Mexican Congress approved several amendments to the Mexican Asset Tax Law (Ley del Impuesto al Activo) that came into effect on January 1, 2007. As a result of such amendments, all Mexican corporations, including us, are no longer allowed to deduct their liabilities from the calculation of the asset tax. We believe that the Asset Tax Law, as amended, is against the Mexican constitution. We have challenged the Asset Tax Law through appropriate judicial action (juicio de amparo).

The asset tax was imposed at a rate of 1.25% on the value of most of the assets of a Mexican corporation. The asset tax was "complementary" to the corporate income tax (impuesto sobre la renta) and, therefore, was payable only to the extent it exceeded payable income tax.

Philippines

As of November 30, 2008, the Philippine Bureau of Internal Revenue (BIR), had assessed APO, Solid, IQAC, ALQC and CSPI, our operating subsidiaries in the Philippines, for deficiency taxes covering taxable years 1998-2005 amounting to a total of approximately 1,994 million Philippine Pesos (approximately U.S.$40.727 million as of November 30, 2008, based on an exchange rate of Philippine Pesos 48.96 to U.S.$1.00, which was the Philippine Peso/Dollar exchange rate on November 30, 2008 as published by the Bangko Sentral ng Pilipinas, the central bank of the Republic of the Philippines).

The majority of the tax assessments result primarily from the disallowance of APO's income tax holiday incentives for taxable years 1999 to 2001 (approximately Philippine Pesos 1,078 million or U.S.$22.1 million as of November 30, 2008, based on an exchange rate of Philippine Pesos 48.96 to U.S.$1.00). We have contested the BIR's assessment, arising from the disallowance of the ITH incentive, with the Court of Tax Appeals (CTA). The initial Division ruling of the CTA was unfavorable, but is subject to further appeal with the CTA as a whole. The assessment is now currently on appeal with the CTA En Banc. A motion was filed with the CTA, requesting the court to hold APO totally not liable for alleged income tax liabilities for all the years covered and to this end cancel and withdraw APO's deficiency income tax assessments for taxable years 1999, 2000 and 2001 on the basis of APO's availment of the tax amnesty described below. As of November 30, 2008, resolution on the aforementioned motion is still pending.

CEMEX Venezuelan Nationalization

In furtherance of Venezuela's announced policy to nationalize certain sectors of the economy, on June 18, 2008, the Nationalization Decree was promulgated, mandating that the cement

production industry in Venezuela be reserved for the Government of Venezuela and ordering the conversion of foreign-owned cement companies, including CEMEX Venezuela, into state-controlled companies with Venezuela holding an equity interest of at least 60%. The Nationalization Decree provided for the formation of a transition committee to be integrated with the board of directors of the relevant cement company to guaranty the transfer of control over all activities of the relevant cement company to Venezuela by December 31, 2008. The Nationalization Decree further established a deadline of August 17, 2008 for the shareholders of foreign-owned cement companies, including CEMEX Venezuela, to reach an agreement with the Government of Venezuela on the compensation for the nationalization of their assets. The Nationalization Decree also provided that this deadline may be extended by mutual agreement of the Government of Venezuela and the relevant shareholder. The transition committee, which was to be coordinated by the Ministry of Basic Industries (MIBAN), was never formally instituted and MIBAN never acted in the process, but instead Petroleos de Venezuela (PDVSA) conducted all the conversations.

CEMEX Venezuela and the Government did not reach agreement by the August 17 deadline, and on August 18 the Expropriation Decree was issued by the President of Venezuela, with PDVSA appointed to conduct the expropriation proceedings. Although these proceedings had not yet commenced, PDVSA officials headed a group of PDVSA workers, with the support of the public force, to take over all the facilities of CEMEX Venezuela on August 17. Since no agreement has been reached with the Venezuelan Government as to the compensation to be paid, the Dutch companies that control CEMEX Venezuela filed an arbitration request before the International Center for the Settlement of Investment Disputes against the Government of Venezuela, which request has been registered and the tribunal is in the process of being formed.

As of December 31, 2007, CEMEX Venezuela, S.A.C.A. was the holding entity of several of CEMEX's investments in the region, including CEMEX's operations in the Dominican Republic and Panama, as well as CEMEX's minority investment in Trinidad. In the wake of statements by the Government of Venezuela about the nationalization of assets in Venezuela, in April 2008, CEMEX concluded the transfer of all material non-Venezuelan investments to CEMEX España for approximately U.S.$355 million plus U.S.$112 million of net debt, having distributed all accrued profits from the non-Venezuelan investments to the stockholders of CEMEX Venezuela amounting to approximately U.S.$132 million. At this time, the net impact or the outcome of the nationalization on CEMEX's consolidated financial results cannot be reasonably estimated. The approximate net assets of CEMEX's Venezuelan operations under Mexican FRS at December 31, 2007 were approximately Ps8,973 million. Since August 2008, CEMEX no longer consolidates the financial results of CEMEX Venezuela.

On June 13, 2008, the Venezuelan securities authority initiated an administrative proceeding against CEMEX Venezuela, claiming that the company did not sufficiently inform its shareholders and the securities authority in connection with the transfer of the non-Venezuelan assets described above. The Venezuelan authority determined that CEMEX Venezuela did not comply with its disclosure obligations and imposed fines on the company, which we do not consider material, and requested the attorney general's office to review the case to determine if such non-disclosure also constituted criminal infringement.

Other Legal Proceedings

On August 5, 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia, claiming that it was liable along with the other members of the Asociación Colombiana de Productores de Concreto, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system of Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads in a manner which guarantees their service during the 20-year period for which they were originally designed, and estimate that the cost of such repair will be approximately U.S.$45 million. The lawsuit was filed within the context of a criminal investigation of two ASOCRETO officers and other individuals, alleging that the ready-mix concrete producers were liable for damages if the ASOCRETO officers were criminally responsible. The court completed the evidentiary stage, and on August 17, 2006 dismissed the charges against the members of ASOCRETO. The other defendants (one ex-director of the Distrital Institute of Development, the legal representative of the constructor and the legal representative of the contract auditor) were formally accused. The decision was appealed, and on December 11, 2006, the decision was reversed and the two ASOCRETO officers were formally accused as participants (determiners) in the execution of a state contract without fulfilling all legal requirements thereof. The first public hearing took place on November 20, 2007. In this hearing the judge dismissed an annulment petition filed by the ASOCRETO officers. The petition was based on the fact that the officers were formally accused of a different crime than the one they were being investigated for. This decision was appealed, but the decision was confirmed by the Superior Court of Bogota. On January 21, 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called El Tujuelo, as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required within a period of 10 days to deposit with the Court in cash CoP$337,800 million (approximately U.S.$195 million as of June 4, 2008, based on an exchange rate of CoP1730 to U.S.$1.00, which was the Colombian Peso/Dollar exchange rate on June 4, 2008, as published by the Banco de la República de Colombia, the central bank of Colombia), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. The measure does not affect the normal activity of the quarry. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.

On August 5, 2005, Cartel Damages Claims, SA, or CDC, filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG and other German cement companies. CDC is seeking €102 million in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002, which entities had assigned their claims to CDC. CDC is a Belgian company established by two lawyers in the aftermath of the German cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office with the express purpose of purchasing potential damages claims from cement consumers and pursuing those claims against the cartel

participants. In January 2006, another entity assigned alleged claims to CDC, and the amount of damages being sought by CDC increased to €113.5 million plus interest. On February 21, 2007, the District Court of Düsseldorf decided to allow this lawsuit to proceed without going into the merits of this case by issuing an interlocutory judgment. All defendants appealed. The appeal hearing took place on April 22, 2008, and the appeal was dismissed on May 14, 2008. The lawsuit will proceed at the level of court of first instance. As of September 30, 2008 only one defendant has decided to file a complaint before the Federal High Court; this will delay the case from proceeding at the level of first instance to an extent we cannot assess today. In the meantime, CDC had acquired new assigners and announced an increase in the claim to €131 million. As of November 30, 2008, we had accrued liabilities regarding this matter for a total amount of approximately €20 million.

After an extended consultation period, in April 2006, the cities of Kaštela and Solin in Croatia published their respective Master (physical) Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to Dalmacijacement, our subsidiary in Croatia, by the Government of Croatia in September 2005. During the consultation period, Dalmacijacement submitted comments and suggestions to the Master Plans, but these were not taken into account or incorporated into the Master Plan by Kaštela and Solin. Most of these comments and suggestions were intended to protect and preserve the rights of Dalmacijacement´s mining concession granted by the Government of Croatia in September 2005. Immediately after publication of the Master Plans, Dalmacijacement filed a series of lawsuits and legal actions before the local and federal courts to protect its acquired rights under the mining concessions. The legal actions taken and filed by Dalmacijacement were as follows: (i) on May 17, 2006, a constitutional appeal before the constitutional court in Zagreb, seeking a declaration by the court concerning Dalmacijacement's constitutional claim for decrease and obstruction of rights earned by investment, and seeking prohibition of implementation of the Master Plans. This cases is currently under review by the court in Croatia, and it is expected that these proceedings will continue for several years before resolution; (ii) on May 17, 2006, a possessory action against the cities of Kaštela and Solin seeking the enactment of interim measures prohibiting implementation of the Master Plans and including a request to implead the Republic of Croatia into the proceeding on our side. The municipal court in Solin issued a first instance judgment dismissing our possessory action. We filed an appeal against that judgment. The appeal has been resolved by the Solin County Court, affirming the judgment and rendering it final. The Municipal Court in Kaštela has issued a first instance judgment dismissing our possessory action. We filed an appeal against said judgment, which has since been resolved by the Kaštela Country Court, affirming the judgment and rendering it final; (iii) on May 17, 2006, an administrative proceeding before the State Lawyer, seeking a declaration from the Government of Croatia confirming that Dalmacijacement acquired rights under the mining concessions. Dalmacijacement received State Lawyer's opinion which confirms the Dalmacijacement's acquired rights according to the previous decisions ("old concession").The Administrative Court in Croatia has ruled in favor of Dalmacijacement, validating the legality of the mining concession granted to Dalmacijacement by the Government of Croatia. This decision is final. Currently it is difficult for Dalmacijacement to ascertain the approximate economic impact of these measures by Kaštela and Solin).

Club of Environmental Protection, a Latvian environmental protection organization (hereinafter the “Applicant”), has initiated a court administrative proceeding against the decision made by the Environment State Bureau (hereinafter the “Defendant) in order to amend the environmental pollution permit (the “Permit”) for the Broceni Cement Plant in Latvia, owned by CEMEX SIA (the “Disputed Decision”). CEMEX SIA was invited to participate in the court proceedings as a third party, whose rights and legal interest may be infringed by the relevant administrative act. On June 5, 2008 the Court rendered its judgment, where it satisfied the Claimant’s claim and revoked the Disputed Decision stating that it is illegal because Defendant failed to perform public inquiry in accordance with legal regulations. The judgment has been appealed by both the Defendant and CEMEX SIA before the Court of Appeal and the court will hear the case in February 24, 2009. The appellate procedure will not suspend the operation of the Permit which will remain valid throughout the court proceedings, hence CEMEX SIA is allowed to continue to perform its activities. The Permit subject to this proceeding was issued for the existing cement line, which will be fully substituted in the first half of 2009 by a new cement line currently under construction.

SCHEDULE 12
MATERIAL SUBSIDIARIES

NEW SUNWARD HOLDING B.V.
MATERIAL SUBSIDIARIES
As of March 31, 2005

CEMEX España, S.A.
CEMEX Caracas Investments B.V.
CEMEX Caracas II Investments B.V.
CEMEX Venezuela, S.A.C.A.
CEMEX American Holdings B.V.
CEMEX Holdings Inc.
CEMEX Corp.
CEMEX, Inc.
CEMEX Cement, Inc.
Sunbelt Cement Holdings Inc.
CEMEX Concrete Holdings LLC
CEMEX Construction Materials, L.P.
Sunbelt Investments, Inc.

SCHEDULE 13
PROMISSORY NOTES

PART I
FORM OF FACILITY A NOTE

PROMISSORY NOTE

[US$/£/EUR/JPY]

For value received, the undersigned, NEW SUNWARD HOLDING B.V. (the "**Borrower**"), by this Promissory Note unconditionally promises to pay to the order of , the principal sum of [US$]/[euro]/[*insert currency*]* (, [currency of the United States of America,]/[currency of a member state of the European Union adopted in accordance with the legislation relating to the Economic and Monetary Union]/[*other—please describe*]* /100) on , 20 , (the "**Termination Date**"), **provided that** if such day is not a Business Day, the Termination Date shall be the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case the Termination Date shall be the immediately preceding Business Day.

The Borrower further promises to pay interest on the principal amount outstanding hereunder for each day during each Interest Period (as hereinafter defined) at a rate per annum equal to the Screen Rate (as hereinafter defined) for such Interest Period **plus** [•] [• per cent.)]. Interest shall be payable on the Interest Payment Date.

The Borrower also promises to pay, to the fullest extent permitted by applicable law, default interest on any amount payable hereunder that is not paid when due, payable on demand, at a rate per annum equal to the Screen Rate then in effect **plus** [•]% (• per cent.) **plus** •% (• per cent.).

All computations of interest hereunder shall be made on the basis of a year of 360 days for the actual number of days elapsed in the period for which any such interest is payable (including the first day but excluding the last day).

All payments to be made on or in respect of this Promissory Note shall be made not later than 10:00 a.m., London time, to the account number , ABA number , Ref.: in , maintained by the Agent (as hereinafter defined), in [Dollars]/[euro]/[*insert currency*]* and in immediately available funds.

All payments hereunder shall be made free and clear of, and without deduction or withholding for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority (as hereinafter defined) ("**Taxes**"). If any Taxes are required to be deducted or withheld from any amounts payable hereunder, the amounts so payable to the holder hereof shall be increased to the extent necessary so that the holder hereof receives all the amount it would have received had no such deduction or withholding been made.

* Please delete as appropriate

The undersigned agree to reimburse upon demand, in like manner and funds, all losses, costs and reasonable expenses of the holder hereof, if any, incurred in connection with the enforcement of this Promissory Note (including, without limitation, all reasonable legal costs and expenses).

For purposes of this Note, the following terms shall have the following meanings:

"**Agent**" means Citibank, N.A.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in Amsterdam and New York, and:

(a) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, a currency other than euro) London and the principal financial centre of the country of that currency; or

(b) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, euro) any TARGET Day.

"**Governmental Authority**" means any branch of power or government or any state, department or other political subdivision thereof, or any governmental body, agency, authority (including any central bank or taxing or environmental authority), any entity or instrumentality (including any court or tribunal) exercising executive, legislative, judicial, regulatory, administrative or investigative functions of or pertaining to government.

"**Interest Payment Date**" means the last day of each Interest Period.

"**Interest Period**" shall mean, the period commencing on the execution date of this Promissory Note and ending [one] [two] [three] [six] months thereafter and thereafter, each period commencing on the last day of the immediately preceding Interest Period and ending [one] [two] [three] [six] months thereafter; **provided that** (i) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such extension would carry such Interest Period into another calendar month, in which event such Interest Period shall end on the immediately preceding Business Day; (ii) no Interest Period shall extend beyond the Termination Date; and (iii) any Interest Period 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 a calendar month.

"**Reference Banks**" means the principal London offices of Citibank, N.A., BNP Paribas and Banco Bilbao Vizcaya Argentaria, S.A.

"**Screen Rate**" means:

(a) in relation to LIBOR, the British Bankers' Association Interest Settlement Rate for the relevant currency and period; and

(b) in relation to EURIBOR, the percentage rate per annum determined by the Banking Federation of the European Union for the relevant period,

displayed on the appropriate page of the Reuters screen. If the agreed page is replaced or service ceases to be available, the Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower and the Lenders.

["**TARGET**" means Trans-European Automated Real-time Gross Settlement Express Transfer payment system.

"**TARGET Day**" means any day on which TARGET is open for the settlement of payments in euro.]**

This Promissory Note shall in all respects be governed by, and construed in accordance with, the laws of England.

Any legal action or proceeding arising out of or relating to this Promissory Note may be brought, in the competent courts of England. The undersigned waive the jurisdiction of any other courts that may correspond for any other reason.

The undersigned hereby waive diligence, presentment, protest or notice of total or partial non-payment or dishonour with respect to this Promissory Note.

This Promissory Note consists of pages.

[PLACE OF EXECUTION] , 2005.

NEW SUNWARD HOLDING B.V.

By: _____
Title: Attorney-in-Fact

GUARANTORS

CEMEX, S.A. DE C.V.

By: _____
Title: Attorney-in-Fact

** Please delete if the Promissory note is not in euro.

CEMEX MÉXICO, S.A. DE C.V.

By: _____

Title: Attorney-in-Fact

EMPRESAS TOLTECA DE MÉXICO, S.A. DE C.V.

By: _____

Title: Attorney-in-Fact

Part II
FORM OF FACILITY B NOTE

PROMISSORY NOTE

[US$/EUR/£/JPY]

For value received, the undersigned, NEW SUNWARD HOLDING B.V. (the "**Borrower**"), by this Promissory Note unconditionally promises to pay to the order of , the principal sum of [US$]/[euro]/[*insert currency*]* (, [currency of the United States of America,]/[currency of a member state of the European Union adopted in accordance with the legislation relating to the Economic and Monetary Union]/[*other—please describe*]* /100) on , 20 , (the "**Termination Date**"), **provided that** if such day is not a Business Day, the Termination Date shall be the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case the Termination Date shall be the immediately preceding Business Day.

The Lender is authorized to record the date, type, amount and currency of each Loan made by the Lender pursuant to the US$700,000,000 Facility Agreement dated [•] June 2005, the date and amount of each repayment of principal hereof, and the date and currency of each interest rate conversion and each continuation pursuant to the Facility Agreement and the principal amount subject thereto, the interest rate and interest period with respect thereto on the schedule annexed hereto and made a part hereof or on any other record customarily maintained by the Lender with respect to this Note and any such recordation shall constitute prima facie evidence of the accuracy of the information so recorded; **provided however** that the failure of the Lender to make such recordation (or any error in such recordation) shall not affect the obligations of the Borrower hereunder or under the Facility Agreement.

The Borrower further promises to pay interest on the principal amount outstanding hereunder for each day during each Interest Period (as hereinafter defined) at a rate per annum equal to the Screen Rate (as hereinafter defined) for such Interest Period **plus** [•%] [(• per cent.)]. Interest shall be payable on each Interest Payment Date (as hereinafter defined).

The Borrower also promises to pay, to the fullest extent permitted by applicable law, default interest on any amount payable hereunder that is not paid when due, payable on demand, at a rate per annum equal to the Screen Rate then in effect **plus** [•]% [(• per cent.)] **plus** 2.00% (• per cent.).

All payments to be made on or in respect of this Promissory Note shall be made not later than 10:00 a.m., London time, to the account number , ABA number , Ref.: in , maintained by the Agent (as hereinafter defined), in [Dollars]/[euro]/[*insert currency*]* and in immediately available funds.

* Please delete as appropriate
* Please delete as appropriate.

All payments hereunder shall be made free and clear of, and without deduction or withholding for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority (as hereinafter defined) ("**Taxes**"). If any Taxes are required to be deducted or withheld from any amounts payable hereunder, the amounts so payable to the holder hereof shall be increased to the extent necessary so that the holder hereof receives all the amount it would have received had no such deduction or withholding been made.

The undersigned agree to reimburse upon demand, in like manner and funds, all losses, costs and reasonable expenses of the holder hereof, if any, incurred in connection with the enforcement of this Promissory Note (including, without limitation, all reasonable legal costs and expenses).

For purposes of this Note, the following terms shall have the following meanings:

"**Agent**" means Citibank, N.A.

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(a) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, a currency other than euro) London and the principal financial centre of the country of that currency; or

(b) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, euro) any TARGET Day.

"**Governmental Authority**" means any branch of power or government or any state, department or other political subdivision thereof, or any governmental body, agency, authority (including any central bank or taxing or environmental authority), any entity or instrumentality (including any court or tribunal) exercising executive, legislative, judicial, regulatory, administrative or investigative functions of or pertaining to government.

"**Interest Payment Date**" means the last day of each Interest Period.

"**Interest Period**" shall mean, the period commencing on the execution date of this Promissory Note and ending [one] [two] [three] [six] months thereafter and thereafter, each period commencing on the last day of the immediately preceding Interest Period and ending [one] [two] [three] [six] months thereafter; **provided that** (i) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such extension would carry such Interest Period into another calendar month, in which event such Interest Period shall end on the immediately preceding Business Day; (ii) no Interest Period shall extend beyond the Termination Date; and (iii) any Interest Period 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 a calendar month.

"**Reference Banks**" means the principal London offices of Citibank, N.A., BNP Paribas and Banco Bilbao Vizcaya Argentaria, S.A.

"**Screen Rate**" means:

(a) in relation to LIBOR, the British Bankers' Association Interest Settlement Rate for the relevant currency and period; and

(b) in relation to EURIBOR, the percentage rate per annum determined by the Banking Federation of the European Union for the relevant period,

displayed on the appropriate page of the Reuters screen. If the agreed page is replaced or service ceases to be available, the Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower and the Lenders.

["**TARGET**" means Trans-European Automated Real-time Gross Settlement Express Transfer payment system.

"**TARGET Day**" means any day on which TARGET is open for the settlement of payments in euro.]**

This Promissory Note shall in all respects be governed by, and construed in accordance with, the laws of England.

Any legal action or proceeding arising out of or relating to this Promissory Note may be brought, in the competent courts of England. The undersigned waive the jurisdiction of any other courts that may correspond for any other reason.

The undersigned hereby waive diligence, presentment, protest or notice of total or partial non-payment or dishonour with respect to this Promissory Note.

This Promissory Note consists of pages.

[PLACE OF EXECUTION] , 2005.

NEW SUNWARD HOLDING B.V.

By: _____

Title: Attorney-in-Fact

GUARANTORS

CEMEX, S.A. DE C.V.

By: _____

Title: Attorney-in-Fact

** Please delete if the Promissory note is not in euro.

CEMEX MÉXICO, S.A. DE C.V.

By: _____

Title: Attorney-in-Fact

EMPRESAS TOLTECA DE MÉXICO, S.A. DE C.V.

By: _____

Title: Attorney-in-Fact

SCHEDULE TO NOTE

LOANS AND PAYMENTS OF PRINCIPAL

Date	Amount of Loan	Currency of Loan	Type of Loan[2]	Interest Rate	Interest Period	Termination Date	Principal Paid or Converted	Principal Balance	Notation Made By

[2] The type of Loan may be represented by "L" for LIBOR Loans, "E" for Euribor Loans.

SCHEDULE 14
QUALIFIED RECEIVABLES TRANSACTIONS

	Description	Counterparty	Date	Currency	Amount in million	Amount in USD million	Maturity
CEMEX France Finance S.A.S.	Amendent and Restated Receivables Assignment Agreement (as amended)	ING Bank (France) S.A.	May 31, 2006	EURO	160,000,000	201,840,000	May 31, 2009
Cemex Inc.	Amended and Restated Receivables Purchase Agreement (as amended)	JP Morgan Chase Bank, N.A./ Lloyds TSB Bank plc	March 20, 2008	USD	500,000,000	500,000,000	March 20, 2009
Cemex Mexico, S.A. de C.V.	Agreement for the Sale and Transfer of Ownership of Designated Receivables	WLB Funding, S.A. de C.V., SOFOM, E.N.R.	January 9, 2008	MXN	2,298,000,000	168,946,985	January 9, 2009
Cemex España, S.A.	Amended and Restated Receivables Purchase Agreement (as amended)	WestLB AG	May 9, 2006	EURO	300,000,000	378,450,000	May 9, 2011
TOTAL						1,249,236,985	

EXHIBIT 4.18

CONFORMED COPY

US$6,000,000,000

AMENDED AND RESTATED ACQUISITION FACILITIES AGREEMENT

Originally dated 6 DECEMBER 2006
as amended on 21 December 2006 and on 27 June 2007
and as amended and restated on 19 December 2008 and on 27 January 2009

for
CEMEX ESPAÑA, S.A.
as Borrower

CITIGROUP GLOBAL MARKETS LIMITED
THE ROYAL BANK OF SCOTLAND PLC

AND

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.

as Mandated Lead Arrangers and Joint Bookrunners

with

THE ROYAL BANK OF SCOTLAND PLC

acting as Agent

ACQUISITION FACILITIES AGREEMENT

TABLE OF CONTENTS

THIS FACILITIES AGREEMENT is dated 6 December 2006 and made

BETWEEN:

(1) **CEMEX ESPAÑA, S.A**. as referred to in Part I of Schedule 1 (*The Obligors*) (the "**Original Borrower**" or the "**Company**");

(2) **CITIGROUP GLOBAL MARKETS LIMITED** , **THE ROYAL BANK OF SCOTLAND PLC** and **BANCO BILBAO VIZCAYA ARGENTARIA, S.A.** as mandated lead arrangers and joint bookrunners (acting whether individually or together the " **Arranger**");

(3) **THE FINANCIAL INSTITUTIONS** listed in Part II of Schedule 1 (*The Original Lenders*) as lenders (the "**Original Lenders**"); and

(4) **THE ROYAL BANK OF SCOTLAND PLC** as agent of the other Finance Parties (the "**Agent**").

IT IS AGREED as follows:

SECTION 1
INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Accession Letter**" means a document substantially in the form set out in Schedule 6 (*Form of Accession Letter*).

"**Acquisition Utilisation**" means a Loan made or to be made for one or more of the purposes set out in paragraphs (a), (b) or (c) of Clause 3.1 (*Purpose*).

"**Acquisition of BidCo Date**" means the date on which BidCo first becomes a Subsidiary of the Company.

"**Acquisition of Target Date**" means the date on which the Target first becomes a Subsidiary of BidCo.

"**Additional Cost Rate**" has the meaning given to it in paragraph 2 of Schedule 4 (*Mandatory Cost Formulae*).

"**Additional Borrower**" means a company which becomes an Additional Borrower in accordance with Clause 26 (*Changes to the Obligors*).

"**Additional Guarantor**" means a company which becomes an Additional Guarantor in accordance with Clause 26 (*Changes to the Obligors*).

"**Additional Obligor**" means an Additional Borrower or an Additional Guarantor.

"**Affiliate**" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"**Agent's Spot Rate of Exchange**" means the Agent's spot rate of exchange for the purchase of the relevant currency with the Base Currency in the London foreign exchange market as of 11:00 a.m. on a particular day.

"**Announcement**" means the announcement dated 27 October 2006 made by CEMEX Parent in respect of the Offer.

"**Assignment Agreement**" means an assignment agreement in the form agreed between the relevant assignor and assignee and approved by the Agent.

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Authorised Signatory**" means, in relation to any Obligor, any person who is duly authorised and in respect of whom the Agent has received a certificate signed by a director or another Authorised Signatory of such Obligor setting out the name and signature of such person and confirming such person's authority to act.

"**Availability Period**" means the period from and including the date of this Agreement to and including the date falling 364 days after the date of this Agreement, unless such date is not a Business Day, in which case the last day of the Availability Period shall be the Business Day immediately prior thereto.

"**Available Commitment**" means, in relation to a Facility, a Lender's Commitment under that Facility minus:

(a) the Base Currency Amount or, in the case of Facility B3 from the Redenomination Date, the amount in euro, of its participation in any outstanding Utilisations under that Facility; and

(b) in relation to any proposed Utilisation, the Base Currency Amount or, in the case of Facility B3 from the Redenomination Date, the amount in euro, of its participation in any other Utilisations that are due to be made under that Facility on or before the proposed Utilisation Date,

other than (in the case of Facility A only) that Lender's participation in any Facility A Loans (excluding Facility A Term Loans) which are due to be repaid or prepaid on or before the proposed Utilisation Date.

"**Available Facility**" means, in relation to a Facility, the aggregate for the time being of each Lender's Available Commitment in respect of that Facility.

"**Base Currency**" means US Dollars.

"**Base Currency Amount**" means in relation to a Utilisation, the amount specified in the Utilisation Request delivered by the Company for that Utilisation (or, if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is three Business Days before the Utilisation Date or, if later, on the date the Agent receives the Utilisation Request in accordance with the terms of this Agreement) as adjusted to reflect any repayment, prepayment, consolidation or division of a Utilisation.

"**BidCo**" means CEMEX Australia Holdings Pty Limited (ACN 122 401 405), a proprietary limited company incorporated under the laws of Australia and registered in the state of Victoria, being a special purpose vehicle incorporated (indirectly) by CEMEX Parent for the purposes of making the Offer.

"**BidCo Group**" means BidCo and its Subsidiaries from time to time.

"**Borrowers**" means the Original Borrower and any Additional Borrower unless, in each case, such entity has ceased to be a Borrower in accordance with Clause 26 (*Changes to the Obligors*) and "**Borrower**" means any of them.

"**Break Costs**" means the amount (if any) by which:

(a) the interest (excluding the applicable Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

(b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the day of receipt or recovery if a Business Day and if received or recovered before 2 pm London time on that day (or, if not, on the Business Day following receipt or recovery) and ending on the last day of the current Interest Period.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Madrid and New York, and:

(a) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, a currency other than euro) the principal financial centre of the country of that currency; or

(b) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, euro) any TARGET Day.

"**Capital Lease**" means any lease that is capitalised on the balance sheet of the Company prepared in accordance with Spanish GAAP.

"**CEMEX Group**" means CEMEX Parent and each of its Subsidiaries from time to time.

"**CEMEX Parent**" means CEMEX, S.A.B. de C.V., a company (*sociedad anónima bursátil de capital variable*) incorporated in Mexico.

"**CEMEX UK**" means CEMEX UK, a Subsidiary of the Company incorporated in England and Wales with company number 05196131 and having its registered office at CEMEX House, Coldharbour Lane, Thorpe, Egham, Surrey TW20 8TD.

"**Certain Funds Breach**" means in respect of the Company and its Subsidiaries from time to time only and not, for the avoidance of doubt, relating to any member of the Target Group (including any failure to procure its compliance), an outstanding breach of Clause 3.1 (*Purpose*) arising from the failure of a Borrower or BidCo to apply the proceeds of an Acquisition Utilisation for the purposes (being one of those listed at paragraph (a), (b) or (c) of Clause 3.1 (*Purpose*)) for which it was advanced, Clauses 23.6 (*Negative Pledge*) (other than any breach in respect of a judgment lien), 23.8 (*Merger*) (other than any breach arising from a downgrade in the Rating of the Company), 23.14 (*Pari passu ranking*) or 23.18 (*The Offer*).

"**Certain Funds Default**" means (a) any outstanding Event of Default in respect of the Company and its Subsidiaries from time to time only and not, for the avoidance of doubt, relating to any member of the Target Group (including any failure to procure its compliance) under any of Clauses 24.1 (*Non-payment*), 24.3 (Other obligations) only in relation to a Certain Funds Breach, 24.4 (*Misrepresentation*) only in relation to a Certain Funds Representation, 24.6 (*Insolvency*), 24.7 (*Insolvency proceedings*), 24.12 (*Unlawfulness*), 24.13 (*Repudiation*) or 24.15 (*BidCo*) or (b) any failure by the Company to comply with the requirements of Clause 4.1 (*Initial Conditions Precedent*) (other than in respect of paragraphs 4(a) and (b), 5(d) and 6(b) of Part I of Schedule 2 (*Conditions Precedent*)).

"**Certain Funds Representation**" means in respect of the Company and its Subsidiaries from time to time only and not, for the avoidance of doubt, relating to any member of the Target Group (including any failure to procure its compliance), any of the representations contained in Clause 20.1 (*Status*) to Clause 20.4 (*Power and authority*) (inclusive) and 20.14 (*Offer Documents Information*) where, in each case, breach would lead to a Material Adverse Effect.

"**Certain Funds Period**" means the period commencing on the date of this Agreement and ending on the last day of the Availability Period.

"**Clean-Up End Date**" means the date falling 180 days after the Acquisition of Target Date.

"**Clean-Up Period**" means the period commencing on the Acquisition of Target Date and ending on the Clean-Up End Date.

"**CO_2 Emission Rights**" means any emission rights or allowance allocated to a member of the Group to emit one tonne of carbon dioxide equivalent (as defined in the Directive) during a specified period which is valid and/or transferable under the Directive and any other type of allowance recognised by the Directive in connection with the Kyoto Protocol on climate change.

"**Commitment**" means a Facility A Commitment, a Facility B Commitment and/or Facility C Commitment.

"**Compliance Certificate**" means a certificate substantially in the form set out in Schedule 7 (*Form of Compliance Certificate*).

"**Conversion Request**" means a request in the form set out in Part III of Schedule 3 (*Requests*).

"**Confidentiality Undertaking**" means a confidentiality undertaking substantially in a recommended form of the LMA as set out in Schedule 9 (*Form of Confidentiality Undertaking*) or in any other form agreed between the Company and the Agent.

"**Corporations Act**" means the Corporations Act 2001 (Commonwealth of Australia), as amended from time to time.

"**Default**" means an Event of Default or any event or circumstance specified in Clause 24 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"**Directive**" means Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the European Community (as amended by Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 and as further amended from time to time).

"**Discharged Rights and Obligations**" has the meaning given to such term in Clause 25.5 (*Procedure for transfer*).

"**Domestic Lender**" means any Spanish resident credit entity registered in the Special Registries of The Bank of Spain as defined in article 8 of Royal Legislative Decree 4/2004 of 5 March and mentioned in paragraph (c) of Article 59 of Corporate Income Tax Regulations approved by Royal Decree 1777/2004 of 30 July (Real Decreto 1777/2004 de 30 de julio) or a permanent establishment of a non-Spanish resident financial entity as defined in article 13.1.a of Royal Legislative Decree 5/2004 of 5 March and mentioned in the second paragraph of Article 8.1 of Non-Resident Income Tax Regulations approved by Royal Decree 1776/2004 of 30 July (Real Decreto 1776/2004 de 30 julio).

"**Environmental Claim**" means any claim, proceeding or investigation by any person in respect of any Environmental Law.

"**Environmental Law**" means any applicable law or regulation in any jurisdiction in which any member of the Group conducts business which relates to the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants.

"**Environmental Permits**" means any permit, licence, consent, approval and other authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any member of the Group conducted on or from the properties owned or used by the relevant member of the Group.

"**ERISA**" means the United States Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

"**EURIBOR**" means, in relation to any Loan in euro:

(a) the applicable Screen Rate; or

(b) (if no Screen Rate is available for the Interest Period of that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request quoted by the Reference Banks to leading banks in the European interbank market,

as of the Specified Time on the Quotation Day for the offering of deposits in euro for a period comparable to the Interest Period of the relevant Loan.

"**Event of Default**" means any event or circumstance specified as such in Clause 24 (*Events of Default*).

"**Existing Target Debt**" means the indebtedness for borrowed monies of the Target Group existing at close of business on the Acquisition of Target Date.

"**Facility**" means any of Facility A, Facility B1, Facility B2, Facility B3 or Facility C.

"**Facility A**" means the multicurrency revolving loan facility (with term-out option) made available under this Agreement as described in paragraph (a) of Clause 2.1 (*The Facilities*).

"**Facility A Commitment**" means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading " **Facility A Commitment**" in Part II of Schedule 1 (*The Original Parties*) from time to time and the amount of any other Facility A Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility A Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility A Loan**" means a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

"**Facility A Term Loan**" means a Facility A Loan which has been converted into a term loan pursuant to Clause 8 (*Conversion of Facility A*).

"**Facility B1**" means the multi currency term loan facility made available under this Agreement as described in paragraph (b) of Clause 2.1 (*The Facilities*).

"**Facility B2**" means the term loan facility made available under this Agreement as described in paragraph (c) of Clause 2.1 (*The Facilities*).

"**Facility B3**" means the term loan facility made available under this Agreement as described in paragraph (d) of Clause 2.1 (*The Facilities*).

"**Facility B Commitment**" means a Facility B1 Commitment, a Facility B2 Commitment or a Facility B3 Commitment.

"**Facility B1 Commitment**" means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading " **Facility B1 Commitment**" in Part II of Schedule 1 (*The Original Parties*) and the amount of any other Facility B1 Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility B1 Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced, transferred or reallocated by it under this Agreement.

"**Facility B2 Commitment**" means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading " **Facility B2 Commitment**" in Part II of Schedule 1 (*The Original Parties*) from time to time and the amount of any other Facility B2 Commitment transferred or reallocated to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility B2 Commitment transferred or reallocated to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility B3 Commitment**" means:

(a) in relation to an Original Lender, the amount in US Dollars or, from the Redenomination Date, its euro equivalent pursuant to the Redenomination, set opposite its name under the heading " **Facility B3 Commitment**" in Part II of Schedule 1 (*The Original Parties*) from time to time and the amount in US Dollars or, from the Redenomination Date, euro, of any other Facility B3 Commitment transferred or reallocated to it under this Agreement; and

(b) in relation to any other Lender, the amount in US Dollars or, from the Redenomination Date, euro, of any Facility B3 Commitment transferred or reallocated to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility B Loan**" means a Facility B1 Loan, a Facility B2 Loan or a Facility B3 Loan.

"**Facility B1 Loan**" means a loan made or to be made under Facility B1 or the principal amount outstanding for the time being of that loan.

"**Facility B2 Loan**" means a loan made or to be made under Facility B2 or the principal amount outstanding for the time being of that loan.

"**Facility B3 Loan**" means a loan made or to be made under Facility B3 or the principal amount outstanding for the time being of that loan.

"**Facility C**" means the multicurrency term loan facility made available under this Agreement as described in paragraph (e) of Clause 2.1 (*The Facilities*).

"**Facility C Commitment**" means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading " **Facility C Commitment**" in Part II of Schedule 1 (*The Original Parties*) and the amount of any other Facility C Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility C Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility C Loan**" means a loan made or to be made under Facility C or the principal amount outstanding for the time being of that loan.

"**Facility Office**" means:

(a) in respect of a Lender, the office or offices notified by that Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement; or

(b) in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes.

"**Fee Letter**" means each of:

(a) the fee letter dated 26 October 2006 between, among others, Citigroup Global Markets Limited, The Royal Bank of Scotland plc and the Company;

(b) the fee letter dated 26 October 2006 between the Agent and the Company; and

(c) any other letter or agreement between the Arranger (or the Agent) and the Company setting out the level of fees payable in respect of the Facilities.

"**Finance Document**" means this Agreement, the Mandate and Commitment Letter, any Accession Letter, each Fee Letter, any Selection Notice and any other document designated in writing as a "**Finance Document**" by the Agent and the Company.

"**Finance Party**" means the Agent, the Arranger or a Lender.

"**Financial Indebtedness**" means any indebtedness for or in respect of, and without double counting:

(a) moneys borrowed (including, but not limited to, any amount raised by acceptance under any acceptance credit facility and receivables sold or discounted on a recourse basis (it being understood that Permitted Securitisations shall be deemed not to be on a recourse basis and shall not constitute Financial Indebtedness));

(b) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(c) the amount of any liability in respect of any lease or hire purchase contract that would, in accordance with Spanish GAAP, be treated as a Capital Lease;

(d) the deferred purchase price of assets or the deferred payment of services, except trade accounts payable in the ordinary course of business;

(e) obligations of a person under repurchase agreements for the stock issued by such person or another person;

(f) obligations of a person with respect to product invoices incurred in connection with exporting financing;

(g) all Financial Indebtedness of others secured by Security on any asset of a person, regardless of whether such Financial Indebtedness is assumed by such person in an amount equal to the lower of (i) the net book value of such asset and (ii) the amount secured thereby; and

(h) the amount of any potential liability in respect of guarantees of Financial Indebtedness referred to in paragraphs (a) to (g) above.

"**Financial Period**" means any annual or semi-annual accounting period of the Company.

"**First Term Out Option Termination Date**" means the date falling 180 days after the Initial Facility A Termination Date (or if such date is not a Business Day, the next succeeding Business Day).

"**First Utilisation Date**" means the date on which the first Utilisation is made under this Agreement.

"**Fitch**" means Fitch Ratings Limited or any successor thereto from time to time.

"**Fourth Amendment Agreement**" means the amendment and restatement agreement in relation to this Agreement dated on or about 27 January 2009 and made between the Company, the Agent and the Arranger.

"**Fourth Amendment Date**" means the date on which the amendment to this Agreement becomes effective in accordance with the terms of the Fourth Amendment Agreement.

"**Funds Flow Statement**" means the funds flow statement prepared by the Company detailing, *inter alia*, how the Offer is to be funded (being the final version thereof delivered to the Agent pursuant to Clause 4.1 (*Initial Conditions Precedent*)).

"**GAAP**" means, in relation to an Obligor, the generally accepted accounting principles applying to it (i) in the country of its incorporation; (ii) in a jurisdiction specified as applicable to it in this Agreement; or (iii) in a jurisdiction agreed to by the Agent which may, in each case, include International Accounting Standards.

"**Group**" means the Company and each of its Subsidiaries from time to time.

"**Group Structure Chart**" means the group structure chart prepared by the Company, (assuming the Acquisition of Target Date has occurred), showing CEMEX Parent, the

Company, BidCo, Target and each Material Subsidiary (and the intended structure of the Group following the Acquisition of BidCo Date) (being the final version thereof delivered to the Agent pursuant to Clause 4.1 (*Initial Conditions Precedent*)).

"**Guarantor Removal Certificate**" has the meaning assigned to such term in Clause 26.6 (*Removal of Guarantor*).

"**Guarantors**" means any Additional Guarantor other than any Additional Guarantor which has ceased to be a Guarantor pursuant to Clause 26.4 (*Resignation of Guarantor*) or been removed as a Guarantor pursuant to Clause 26.6 (*Removal of Guarantor*) and has not subsequently again become an Additional Guarantor pursuant to Clause 26.3 (*Additional Guarantors*) and "**Guarantor**" means any of them.

"**Holding Company**" means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

"**Information Memorandum**" means the document which, at the request of the Company and on its behalf, was prepared in relation to the financing of the acquisition of the Target Shares and approved by the Company and distributed by the Arranger prior to the Syndication Date in connection with the syndication of the Facilities.

"**Initial Facility A Termination Date**" means the date falling 364 days after the date of this Agreement.

"**Intellectual Property**" means:

(a) any patents, trade marks, service marks, designs, business names, copyrights, design rights, data-base rights, inventions, knowhow and other intellectual property rights and interests, whether registered or unregistered; and

(b) the benefit of all applications and rights to use such assets of each member of the Group.

"**Interest Period**" means, in relation to a Loan, each period determined in accordance with Clause 11 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 10.3 (*Default interest*).

"**International Accounting Standards**" means the accounting standards approved by the International Accounting Standards Board from time to time.

"**Kyoto Protocol**" means the Kyoto Protocol to the United Nations Framework Convention on Climate Change adopted by consensus at the Third Session of the Conference of the Parties in December 1997.

"**Legal Opinions**" means the legal opinions delivered to the Agent pursuant to Clause 4.1 (*Initial Conditions Precedent*) or in relation to any Additional Obligors.

"**Lender**" means:

(a) any Original Lender; and

(b) any bank, financial institution, trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets which, in each case, has become a Party in accordance with Clause 25 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

"**LIBOR**" means, in relation to any Loan:

(a) the applicable Screen Rate; or

(b) (if no Screen Rate is available for the currency or Interest Period of that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request quoted by the Reference Banks to leading banks in the London interbank market,

as of the Specified Time on the Quotation Day for the offering of deposits in the currency of that Loan and for a period comparable to the Interest Period for that Loan.

"**LMA**" means the Loan Market Association.

"**Loan**" means any of a Facility A Loan, a Facility B Loan or a Facility C Loan.

"**M&A Advisor**" means the mergers and acquisitions and financial advisor(s) to CEMEX Parent (or its applicable Subsidiary) in respect of the Offer.

"**Majority Lenders**" means a Lender or Lenders whose undrawn Commitments and participations in the Loans then outstanding aggregate more than 51 per cent. of all the undrawn Commitments and Loans then outstanding.

"**Mandate and Commitment Letter**" means the letter entitled "Project Leonardo mandate and commitment letter" dated 26 October 2006 (and the supplemental letter thereto dated 14 November 2006) entered into by the Company in respect of the Facilities (as amended from time to time).

"**Mandatory Cost**" means the percentage rate per annum calculated in accordance with Schedule 4 (*Mandatory Cost Formulae*).

"**Margin**" means:

(a) in relation to any Facility A Loan, 0.325 per cent. per annum;

(b) in relation to any Facility B1 Loan, 0.400 per cent. per annum;

(c) in relation to any Facility B2 Loan:

(i) for the period from and including the Third Amendment Date to and including 5 December 2009 (the " **Initial Margin Period**"), 0.400 per cent. per annum; and

(ii) from and including 6 December 2009, 2.000 per cent. per annum;

(c) in relation to any Facility B3 Loan:

(i) for the Initial Margin Period, 0.400 per cent. per annum; and

(ii) from and including 6 December 2009, 1.750 per cent. per annum;

(d) in relation to any Facility C Loan, 0.450 per cent. per annum;

(e) in relation to any Unpaid Sum the percentage rate per annum specified above applicable to the Facility in relation to which the Unpaid Sum arises, or if such Unpaid Sum does not arise in relation to a particular Facility, the rate per annum specified above applicable to the Facility to which the Agent reasonably determines the Unpaid Sum most closely relates, or if none, the highest rate per annum specified above;

but if at any time after the First Utilisation Date:

(i) no Default has occurred and is continuing; and

(ii) the Net Borrowings to Adjusted EBITDA ratio in respect of the most recently completed Relevant Period is within a range set out below,

then the Margin for each Loan under Facility A, Facility B1, Facility C and, for the Initial Margin Period only, Facility B2 and Facility B3, will (subject, in the case of Facility A, to paragraph (B) below) be the percentage rate per annum set out below opposite that range:

	Margin % p.a.				
Net Borrowings to Adjusted EBITDA	**Facility A**	**Facility B1**	**Facility B2 (for Initial Margin Period only)**	**Facility B3 (for Initial Margin Period only)**	**Facility C**
Greater than 3.0:1	0.325	0.400	0.400	0.400	0.450
Less than or equal to 3.0:1 but greater than 2.5:1	0.275	0.325	0.325	0.325	0.375
Less than or equal to 2.5:1 but greater than 2.0:1	0.225	0.250	0.250	0.250	0.300
Less than or equal to 2.0:1	0.150	0.200	0.200	0.200	0.250

However:

(A) any increase or decrease in the Margin shall take effect on the date (the " **reset date**") which is five Business Days after receipt by the Agent of the Compliance Certificate for that Relevant Period pursuant to Clause 21.2 (*Compliance Certificate*) and in the case of a then current Interest Period will apply to the whole of such Interest Period unless any payments of interest have already been made in which case any adjustments to the Margin will apply only from the date of such payment. For the purpose of determining the Margin, the Net Borrowings to Adjusted EBITDA ratio and the Relevant Period shall be determined in accordance with Clause 22.1 (*Financial definitions*); and

(B) following the exercise by the Company of the option set out in Clause 8.1 (*First Term Out Option*), the Margin applicable to any Facility A Term Loan shall be as set out above **provided that** an additional 0.05 per cent. per annum shall be added thereto, payable from the Initial Facility A Termination Date.

"**Material Adverse Effect**" means a material adverse effect on:

(a) with respect to the period prior to the Acquisition of BidCo Date, the business, condition (financial or otherwise) or operations of the Group and BidCo and its Subsidiaries taken as a whole;

(b) with respect to the period from (and including) the Acquisition of BidCo Date, the business, condition (financial or otherwise) or operations of the Group, taken as a whole;

(c) the rights or remedies of any Finance Party under the Finance Documents; or

(d) the ability of any Obligor to perform its payment obligations under the Finance Documents.

"**Material Subsidiary**" means:

(a) BidCo (but only until such time as the first Compliance Certificate required to be delivered after the Acquisition of Target Date is delivered, unless thereafter it qualifies pursuant to paragraph (b) below); and

(b) any Subsidiary of the Company which at any time:

(i) has total assets representing 5 per cent. or more of the total consolidated assets of the Group; and/or

(ii) has revenues representing 5 per cent. or more of the consolidated turnover of the Group,

in each case calculated on a consolidated basis **provided that** notwithstanding the above no member of the Target Group shall be a Material Subsidiary prior to the Clean-Up End Date.

If the Acquisition of BidCo Date has not occurred but BidCo has become a Guarantor, then during the period (the " **BidCo Period**") from the date that BidCo becomes a Guarantor until BidCo first becomes a Subsidiary of the Company (if such occurs)), the reference to "any Subsidiary of the Company" in paragraph (b) above shall be deemed to also include a reference to any member of the BidCo Group and during the BidCo Period the references to "the Group" in sub-paragraphs (b)(i) and (b)(ii) shall be deemed to refer to the Group and the BidCo Group taken as a whole.

The Material Subsidiaries (other than BidCo) as at the date of this Agreement are set out in Schedule 12 (*Material Subsidiaries*) (and compliance with the conditions set out in paragraph (b) shall be determined by reference to such Schedule 12 until delivery of the first Compliance Certificate required to be delivered hereunder).

Following delivery of the first Compliance Certificate required to be delivered hereunder, compliance with the conditions set out in paragraph (b) shall be determined by reference to the most recent Compliance Certificate supplied by the Company and/or the latest audited financial statements of that Subsidiary (consolidated in the case of a Subsidiary which itself has Subsidiaries) and the latest audited consolidated financial statements of the Group, but if a Subsidiary has been acquired since the date as at which the latest audited consolidated financial statements of the Group were prepared, the figures contained in the most recent Compliance Certificate and/or the financial statements shall be adjusted in order to take into account the acquisition of that Subsidiary (that adjustment being certified by the Group's auditors as representing an accurate reflection of each of the respective revised total assets and turnover of the Group).

A report by the auditors of the Company (or, as the case may be, any other internationally recognised accounting firm that is approved by the Agent) that a Subsidiary is a Material Subsidiary shall, in the absence of manifest error, be conclusive and binding on all Parties.

"**Month**" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

(a) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;

(b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and

(c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period. " **Monthly**" shall be construed accordingly.

"**Notarisation**" has the meaning ascribed to such term in Clause 23.5 (*Notarisation*).

"**New Lender**" means a New Lender as specified in a Transfer Certificate.

"**New Spanish GAAP**" means the generally accepted accounting principles in Spain which were enacted for periods commencing on or after 1 January 2008 (Spanish GAAP 2007).

"**NOF**" has the meaning ascribed to such term in Clause 23.20 (*NOF*).

"**Obligors**" means the Borrowers and the Guarantors and "**Obligor**" means any of them.

"**Offer**" means the offer made by BidCo, substantially on the terms set out in the Announcement, to acquire all of the Target Shares (together with the Target ADRs) not already owned by BidCo, as such offer may from time to time be amended, added to, revised, renewed or waived as permitted in accordance with the Clause 23.18 (*The Offer*).

"**Offer Document**" means the Bidder's Statement dated 30 October 2006, which included an offer dated 14 November 2006, delivered to the shareholders of the Target by or on behalf of BidCo in relation to the Offer.

"**Offer Documents**" means the Offer Document, the Announcement and any other documents despatched to the shareholders of the Target in relation to the Offer by or on behalf of BidCo (a copy of which has been provided to the Agent).

"**Optional Currency**" means a currency (other than the Base Currency) which complies with the conditions set out in Clause 4.5 (*Conditions relating to Optional Currencies*) provided that, for the avoidance of doubt, euro shall not be an Optional Currency with respect to Facility B3.

"**Original Financial Statements**" means:

(a) in relation to the Company, its audited unconsolidated and consolidated financial statements for its financial year ended 31 December 2005; and

(b) in relation to any other Obligor, its most recent audited annual financial statements.

"**Original Obligor**" means the Original Borrower.

"**Other Agreed Offer Facilities**" means the facilities (other than the Facilities) to be made available (directly or indirectly) to BidCo for the purpose of funding the Offer being made up, as at the date of this Agreement, of the following:

(a) a US$1,200,000,000 committed acquisition facility for CEMEX Parent dated 24 October 2006;

(b) a US$1,500,000,000 senior bridge facility for New Sunward Holding B.V. dated on or about the date of this Agreement (and/or, to the extent applicable, the "hybrid" securities issued by a subsidiary of New Sunward Holding B.V. in order to refinance the same, in whole or in part);

(c) certain existing syndicated loan facilities of CEMEX Parent; and

(d) any other financing source available to CEMEX Parent or any of its Subsidiaries.

"**Outlook**" means a rating outlook of the Company with regard to the Company's economic and/or fundamental business condition, as assigned by a Rating Agency.

"**Participating Member State**" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"**Party**" means a party to this Agreement.

"**Permitted Notarisations**" has the meaning ascribed to such term in Clause 23.5 (*Notarisation*).

"**Permitted Securitisations**" means a sale, transfer or other securitisation of receivables and related assets by the Company or its Subsidiaries, including a sale at a discount, **provided that** (i) such receivables have been transferred, directly or indirectly, by the originator thereof to a person in a manner that satisfies the requirements for an absolute conveyance under the laws and regulations of the jurisdiction in which such originator is organised and (ii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or other securitisation is carried out on a non-recourse basis or on a basis where recovery is limited solely to the collection of the relevant receivables.

"**Process Agent**" means CEMEX UK at its registered address (being, as at the date of this Agreement, CEMEX House, Coldharbour Lane, Thorpe, Egham, Surrey TW20 8TD) and with fax number (+44) 01932 568933, attn: The Secretary.

"**Qualifying Lender**" has the meaning given to that term in Clause 14 (*Tax gross-up and indemnities*).

"**Quotation Day**" means, in relation to any period for which an interest rate is to be determined:

(a) (if the currency is sterling) the first day of that period;

(b) (if the currency is euro) two TARGET Days before the first day of that period; or

(c) (for any other currency) two Business Days before the first day of that period,

unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Day for that currency will be determined by the Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days).

"**Rating**" means at any time the solicited long term credit rating or the senior implied rating of the Company or an issue of securities of or guaranteed by the Company, where the rating is based primarily on the senior unsecured credit risk of the Company and/or, in the case of the senior implied rating, on the characteristics of any particular issue, assigned by a Rating Agency.

"**Rating Agency**" means Fitch or S&P.

"**Reallocation Notice**" means a notice substantially in the form set out in Part IV of Schedule 3 (*Requests*).

"**Redenomination**" means the redenomination of Facility B3 from US dollars to euro in accordance with Clause 2.2 (*Redenomination of Facility B3*).

"**Reference Banks**" means the principal London offices of Citibank International plc, The Royal Bank of Scotland plc, Banco Bilbao Vizcaya Argentaria, S.A. and such other banks as may be appointed by the Agent in consultation with the Company.

"**Relevant Interbank Market**" means, in relation to euro, the European interbank market, and, in relation to any other currency, the London interbank market.

"**Relevant Jurisdiction**" means in relation to an Obligor:

(a) its jurisdiction of incorporation; and

(b) any jurisdiction where it conducts its business.

"**Relevant Period**" has the meaning given to that term in Clause 22 (*Financial Covenants*).

"**Repeating Representations**" means each of the representations set out in Clauses 20.1 (Status) to Clause 20.6 (*Governing law and enforcement*), Clause 20.9 (*No Default*), Clause 20.11 (*Financial statements*), Clause 20.12 (*Pari passu ranking*), Clause 20.13 (*No proceedings pending or threatened*) and Clause 20.15 (*No winding-up*).

"**Rollover Loan**" means one or more Facility A Loans (other than a Facility A Term Loan):

(a) made or to be made on the same day that a maturing Facility A Loan is due to be repaid;

(b) the aggregate amount of which is equal to or less than the maturing Facility A Loan;

(c) in the same currency as the maturing Facility A Loan (unless it arose as a result of the operation of Clause 6.2 (*Unavailability of a currency*)); and

(d) made or to be made for the purpose of refinancing a maturing Facility A Loan.

"**S&P**" means Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc., or any successor thereto from time to time.

"**Screen Rate**" means:

(a) in relation to LIBOR, the British Bankers' Association Interest Settlement Rate for the relevant currency and period; and

(b) in relation to EURIBOR, the percentage rate per annum determined by the Banking Federation of the European Union for the relevant period,

displayed on the appropriate page of the Reuters screen. If the agreed page is replaced or the service ceases to be available, the Agent may specify another page or service displaying the appropriate rate after consultation with the Company and the Lenders.

"**Second Term Out Option Termination Date**" means the date falling 180 days after the First Term Out Option Termination Date (or if such date is not a Business Day, the next succeeding Business Day).

"**Security**" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Spain**" means the Kingdom of Spain.

"**Selection Notice**" means a notice substantially in the form set out in Part II of Schedule 3 (*Requests*) given in accordance with Clause 11 (*Interest Periods*) in relation to a Facility A Term Loan, or any Loan under Facility B1, Facility B2, Facility B3 or Facility C.

"**Spanish Public Document**" means any obligation in an *Escritura Pública* or *documento intervenido*.

"**Specified Time**" means a time determined in accordance with Schedule 8 (*Timetables*).

"**Stake**" means a number of shares in any Group member held by another Group member the disposal of which would cause the first Group member to cease to be a Subsidiary of the second Group member.

"**Subsidiary**" means in relation to any company or corporation, a company or corporation:

(a) which is controlled, directly or indirectly, by the first mentioned company or corporation;

(b) more than half the issued share capital of which is beneficially owned, directly or indirectly (by one or more companies or corporations) by the first mentioned company or corporation; or

(c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able (directly or indirectly) to direct its affairs and/or to control the composition of its board of directors or equivalent body.

"**Syndication Date**" means the earlier of:

(a) the date falling 3 Months after the Unconditional Date; and

(b) the date on which the Arranger confirms that the primary syndication of the Facilities has been completed.

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

"**Target**" means Rinker Group Limited (ABN 53 003 433 118), a public limited company incorporated under the laws of Australia and registered in the state of New South Wales (it being acknowledged that the name of such company may be changed after the date of this Agreement).

"**TARGET Day**" means any day on which TARGET2 is open for the settlement of payments in euro.

"**Target ADRs**" means the American depository receipts which evidence American depository shares issued by JPMorgan Chase Bank, N.A. in its capacity as the depository of Target's American depository receipt programme, representing beneficial interests in five ordinary shares in the Target.

"**Target Group**" means the Target and its Subsidiaries from time to time.

"**Target Shares**" means all of the issued and outstanding shares of the Target (including those represented by the Target ADRs) and options or warrants in relation to such shares, in each case which are or become the subject of the Offer.

"**Tax**" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Term Loan**" means any of a Facility A Term Loan, a Facility B Loan or a Facility C Loan.

"**Termination Date**" means:

(a) in relation to Facility A, subject to Clause 8 (*Conversion of Facility A*), the Initial Facility A Termination Date,

(b) in relation to Facility B1, the day which is 36 Months after the date of this Agreement;

(c) in relation to Facility B2, 5 December 2010;

(d) in relation to Facility B3, 5 December 2010; and

(e) in relation to Facility C, the day which is 60 Months after the date of this Agreement;

or,

(i) in the case of paragraph (a), if such day would not be a Business Day, the immediately preceding Business Day; and

(ii) in the case of paragraphs (b) to (e), if such day would not be a Business Day, the first succeeding Business Day, unless such day would fall into the next month, in which case the immediately preceding Business Day.

"**Third Amendment Agreement**" means the amendment and restatement agreement in relation to this Agreement dated 19 December 2008 made between the Company, the Agent and the Arranger.

"**Third Amendment Date**" means the date on which the amendment to this Agreement becomes effective in accordance with the terms of the Third Amendment Agreement.

"**Total Commitments**" means the aggregate of the Total Facility A Commitments, the Total Facility B Commitments and the Total Facility C Commitments.

"**Total Facility A Commitments**" means the aggregate of the Facility A Commitments, being US$3,000,000,000 at the date of this Agreement.

"**Total Facility B1 Commitments**" means the aggregate of the Facility B1 Commitments, being US$1,301,000,000.03 at the Fourth Amendment Date (as the same may be subject to changes from time to time pursuant to Clause 36.3 (*Reallocation of Facility B Commitments*)).

"**Total Facility B2 Commitments**" means the aggregate of the Facility B2 Commitments, being US$1,142,939,393,93 at the Fourth Amendment Date (as the same may be subject to changes from time to time pursuant to Clause 36.3 (*Reallocation of Facility B Commitments*)).

"**Total Facility B3 Commitments**" means the aggregate of the Facility B3 Commitments, being, US$556,060,606.04 at the Fourth Amendment Date and, from the Redenomination Date, such amount in euro equivalent redenominated in accordance with Clause 2.2 (*Redenomination of Facility B3*) (as the same may be subject to changes from time to time pursuant to Clause 36.3 (*Reallocation of Facility B Commitments*)).

"**Total Facility C Commitments**" means the aggregate of the Facility C Commitments, being US$3,000,000,000 at the date of this Agreement.

"**Transfer Certificate**" means a certificate substantially in the form set out in Schedule 5 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Company.

"**Transfer Date**" means, in relation to a transfer, the later of:

(a) the proposed Transfer Date specified in the Transfer Certificate; and

(b) the date on which the Agent executes the Transfer Certificate.

"**Unconditional Date**" means the date that the Offer is declared unconditional by BidCo.

"**Unpaid Sum**" means any sum due and payable but unpaid by an Obligor under the Finance Documents.

"**U.S.**", "**US**" or "**United States**" means the United States of America.

"**U.S. Lender**" means (i) any bank or other financial institution that is organised under the laws of the United States (but does not include any branch of a bank organised under the laws of the United States where such branch is located outside the United States) or (ii) any agency or branch of a foreign bank located within the United States. A financial institution that is not a bank and is controlled, directly or indirectly, by a person or entity located in or organised under the laws of the United States will be deemed to be a U.S. Lender, unless that financial institution is organised under the laws of a jurisdiction outside the United States and has its principal office (and any different office directly administering any Loans or participations therein) outside the United States. Any proposed Lender or participant that is not a bank will be deemed to be a financial institution for purposes of this definition.

"**Utilisation**" means a utilisation of a Facility.

"**Utilisation Date**" means the date of a Utilisation, being the date on which the relevant Loan is to be made.

"**Utilisation Request**" means a notice substantially in the form set out in Part I of Schedule 3 (*Requests*).

"**VAT**' means value added tax as provided for in the Sixth Council Directive of 17 May 1977 on the harmonization of the laws of the member states of the European Union relating to turnover taxes - Common system of value added tax : uniform basis of assessment (77/388/EEC) and the relevant implementing legislation in member states of the European Union and any other Tax of a similar nature.

1.2 **Construction**

(a) Unless a contrary indication appears a reference in this Agreement to:

(i) the "**Agent**", the "**Arranger**", any "**Finance Party**", any "**Lender**", any "**Obligor**", any "**Party**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

(ii) a document in "**agreed form**" is a document which is initialled by or on behalf of the Company and the Agent or the Arranger;

(iii) "**assets**" includes present and future properties, revenues and rights of every description;

(iv) the "**European interbank market**" means the interbank market for euro operating in Participating Member States;

(v) a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated (in each case, however fundamentally);

(vi) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

(vii) a "**participation**" of a Lender in a Loan, means the amount of such Loan which such Lender has made or is to make available and thereafter that part of the Loan which is owed to such Lender;

(viii) a "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing;

(ix) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, with which persons who are subject thereto are accustomed to comply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

(x) the "**winding-up**", "**dissolution**", "**administration**" or "**reorganisation**" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings (such as, in Spain, *concurso*, *liquidación forzasa*, *intervención* or *nombramiento de un administrator judicial*) under the laws and regulations of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, bankruptcy, dissolution, administration, arrangement, adjustment, protection or relief of debtors;

(xi) a provision of law is a reference to that provision as amended or re-enacted without material modification;

(xii) a time of day is a reference to London time; and

(xiii) a reference to a clause, paragraph or schedule, unless the context otherwise requires, is a reference to a clause of, a paragraph of or a schedule to this Agreement.

(b) Section, Clause and Schedule headings are for ease of reference only.

(c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

(d) A Default (including an Event of Default) is "**continuing**" if it has not been remedied or waived but, for the avoidance of doubt, no breach of any of the financial covenants set out in Clause 22 (*Financial Covenants*) shall be capable of being or be deemed to be remedied by virtue of the fact that upon any subsequent testing of such covenants pursuant to Clause 22 (*Financial Covenants*), there is no breach thereof.

1.3 **Currency Symbols and Definitions**

"€", "**EUR**" and "**euro**" means the single currency unit of the Participating Member States and " **US$**"**,** "**$**" **and** "**US Dollars**" denote lawful currency of the United States of America.

1.4 **Third party rights**

(a) Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or enjoy the benefit of any term of any Finance Document.

(b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary any Finance Document at any time.

SECTION 2
THE FACILITIES

2. THE FACILITIES

2.1 The Facilities

Subject to the terms of this Agreement, the Lenders make available:

(a) a 364 day multicurrency revolving loan facility with the two term-out options described in Clause 8 (*Conversion of Facility A*) in an aggregate amount equal to the Total Facility A Commitments;

(b) a three year multicurrency term loan facility in an aggregate amount equal to the Total Facility B1 Commitments;

(c) a US Dollar term loan facility in an aggregate amount equal to the Total Facility B2 Commitments;

(d) a US Dollar (subject to Clause 2.2 (*Redenomination of Facility B3*)) term loan facility in an aggregate amount equal to the Total Facility B3 Commitments; and

(e) a five year multicurrency term loan facility in an aggregate amount equal to the Total Facility C Commitments.

2.2 Redenomination of Facility B3

(a) Facility B3 shall be denominated:

(i) for the period from the Fourth Amendment Date until the Redenomination Date, in US Dollars; and

(ii) thereafter, following its redenomination in accordance with this Clause 2.2, in euro,

and the Company, the Agent and the Lenders participating in Facility B3 (the " **Facility B3 Lenders**") agree that the following procedure set out in this Clause 2.2 shall be implemented to redenominate Facility B3 in full into euro on the Redenomination Date.

(b) By no later than 11 a.m. (London time) on R-3, the Company shall notify the Agent of a three day forward exchange rate for the conversion of US Dollars into euro (the "**Conversion Rate**") and shall also deliver a Selection Notice in respect of each Facility B3 Loan indicating the Interest Period which shall apply to each Facility B Loan commencing on the Redenomination Date in accordance with Clause 11.1 (*Selection of Interest Periods*).

(c) The Agent shall determine, using the Conversion Rate, the amount in euro of each Facility B3 Loan and shall, no later than 3 p.m. (London time) on R-3, notify each Facility B3 Lender of (i) the Conversion Rate, (ii) the Interest Period selected, (iii) such amount in euro of each Facility B3 Loan, and (iv) the amount of each Facility B3 Lender's participation in each Facility B3 Loan (such amount, with respect to a Facility B3 Lender, a "**Euro Participation**").

(d) By no later than 11.00 a.m. on R-2, the Agent shall notify each Facility B3 Lender of the Screen Rate.

(e) On the Redenomination Date:

(i) each Facility B3 Lender shall make its Euro Participation available through its Facility Office to the Agent;

(ii) the Agent shall, upon receipt of a Facility B3 Lender's Euro Participation, immediately transfer the same to the Company (or as the Company may direct);

(iii) the Company shall pay to the Agent or shall procure that there is paid to the Agent an amount in US Dollars equivalent, at the Conversion Rate, to the aggregate amount of the Euro Participations it has received from the Agent (the " **US Dollar Repayment Amount**"); and

(iv) the Agent shall pay to each Facility B3 Lender who has made available a Euro Participation to the Agent as set out in sub-paragraph (i) above, its share of the US Dollar Repayment Amount *pro rata* to its Facility B3 Commitment immediately prior to its conversion into euro,

with each of the above steps (i) to (iv) deemed to occur simultaneously for value on the same day.

(f) In the event that, notwithstanding its obligations under this Agreement, any Facility B3 Lender does not make available its Euro Participation in accordance with paragraph (e)(i) above, no amount in respect of such Facility B3 Lender's Euro Participation will be transferred by the Agent to the Company in accordance with paragraph (e)(ii) above, such Facility B3 Lender shall not be entitled to receive any amount from the Agent when the US Dollar Repayment Amount is paid by the Agent to Facility B3 Lenders in accordance with sub-paragraph (e)(iv) above, and such Facility B3 Lender's participation in Facility B3 Loans shall remain outstanding and denominated in US Dollars (and for the avoidance of doubt, the provisions of Clause 29 (*Sharing among the Finance Parties*) shall be deemed not to apply).

(g) In this Clause 2.2, "**Redenomination Date**" or "**R**" means 30 January 2009 (or such other date as the Company and the Agent may agree), and "**R-2**" and "**R-3**" mean, respectively, the dates falling 2 Business Days and 3 Business Days prior to the Redenomination Date.

(h) As soon as practicable after the Redenomination Date, the Agent shall circulate to the Company and each Lender an updated form of Part II of Schedule 1, showing the Total Facility B3 Commitments in euro on the Redenomination Date which shall be deemed to replace Part II of Schedule 1 to this Agreement.

2.3 **Finance Parties' rights and obligations**

(a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

(b) Except as otherwise stated in the Finance Documents, the rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt.

(c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

2.4 **Affiliate Facility Offices**

(a) A Lender may designate an Affiliate of that Lender as its Facility Office for the purpose of participating in or making Loans to Borrowers in particular countries.

(b) An Affiliate of a Lender may be designated for the purposes of paragraph (a):

(i) by appearing under the name of the Lender in Part II (*The Original Lenders*) of Schedule 1 and executing this Agreement; or

(ii) by being referred to in and executing a Transfer Certificate by which the Lender becomes a Party.

(c) An Affiliate of a Lender referred to in this Clause 2.4 shall not have any Commitment, but shall be entitled to all rights and benefits under the Finance Documents relating to its participation in Loans, and shall have the corresponding duties of a Lender in relation thereto, and is a Party to this Agreement and each other relevant Finance Document for those purposes.

(d) A Lender which has an Affiliate appearing under its name in Part II (*The Original Lenders*) of Schedule 1 or, as the case may be, in a Transfer Certificate, will procure, subject to the terms of this Agreement, that the Affiliate participates in Loans to the relevant Borrower(s) in place of that Lender. However, if as a result of the Affiliate's participation, an Obligor would be obliged to make a payment to the Affiliate under Clause 14 (*Tax Gross-up and indemnities*) or Clause 15 (*Increased costs*), then the Affiliate is only entitled to receive payment under those clauses to the same extent as the Lender (designating such Affiliate) would have been if the Lender had not designated such Affiliate for the purposes of paragraph (a) above.

3. **PURPOSE**

3.1 **Purpose**

The Borrower shall (directly or indirectly) apply all amounts borrowed by it under the Facilities towards:

(a) financing the consideration payable by BidCo for:

(i) the Target Shares to be acquired under the Offer;

(ii) the Target ADRs to be acquired under the Offer (in accordance with the applicable United States of America securities laws and regulations); and

(iii) the Target Shares (if any) acquired under the compulsory acquisition procedures set out in Part 6A.1 of the Corporations Act;

(b) (if required) financing the consideration payable to holders of options to acquire Target Shares pursuant to any proposal in respect of those options as required by the Corporations Act or other relevant Australian companies law or in accordance with the constitution of Target or pursuant to any resolution of the board of directors of Target or any relevant pension or employment benefit plan administrators;

(c) financing the payment of costs, fees, expenses (and Taxes on them) and stamp duty, registration and other similar Taxes incurred by BidCo and any member of the Group in relation to the Offer and/or the Finance Documents (but not, for the avoidance of doubt, including fees payable to the M&A Advisor by CEMEX Parent or any of its Subsidiaries in connection with the Offer); and

(d) (if required or if the Company deems it necessary) financing or refinancing the Existing Target Debt.

3.2 **Monitoring**

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. CONDITIONS OF UTILISATION

4.1 **Initial Conditions Precedent**

The Company may not deliver the first Utilisation Request unless the Agent has received all of the documents and other evidence listed in Part I of Schedule 2 (*Conditions Precedent to Initial Utilisation*) in form and substance satisfactory to the Arranger, acting reasonably. The Arranger shall notify the Agent, who shall promptly notify the Company and the Lenders, that they are so satisfied.

4.2 **Funds Flow Statement and Group Structure Chart**

With regard to the Funds Flow Statement and Group Structure Chart required to be received by the Agent pursuant to Clause 4.1 (*Initial Conditions Precedent*), the Arranger confirms that provided the final forms of such documents:

(a) are substantially the same as the indicative funds flow statement and group structure chart (the " **Indicative Documents**") delivered to the Arranger by the Company on or prior to the date of this Agreement and initialled by the Arranger and the Company (or with such changes as noted thereon); or

(b) contain no changes to the terms of the Indicative Documents that are materially adverse to the interests of the Finance Parties, then such Funds Flow Statement and Group Structure Chart shall be in form and substance satisfactory to the Arranger.

4.3 **Further Conditions Precedent**

Subject to the provisions of Clause 4.4 (*Certain Funds*), the Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) if on the date of the Utilisation Request and on the proposed Utilisation Date:

(a) in the case of a Rollover Loan, no Event of Default is continuing or would result from the proposed Loan and, in the case of any other Utilisation, no Default is continuing or would result from the proposed Utilisation; and

(b) the Repeating Representations which are or which are deemed to be made or repeated by each Obligor on such date pursuant to Clause 20.21 (*Times on which representations are made*) are true in all material respects.

4.4 **Certain Funds**

Notwithstanding any term of the Finance Documents (other than Clause 3.1 (*Purpose*) and 9.2 (*Change of control*)), each Finance Party agrees that during the Certain Funds Period, the Finance Parties shall not:

(a) be entitled to refuse to participate in or make available any Acquisition Utilisation, whether by cancellation, rescission or termination or similar right or remedy (whether under the Finance Documents or under any applicable law) which it may have in relation to an Acquisition Utilisation (including by invoking any conditions set out in Clause 4.1 in respect of compliance with sub-paragraphs 4(a) and (b), 5(d) and 6(b) of Part I of Schedule 2, and Clause 4.3 (*Further Conditions Precedent*));

(b) make or enforce any claims they may have under the Finance Documents if the effect of such claim or enforcement would be to prevent or limit the making of any Acquisition Utilisation during the Certain Funds Period;

(c) otherwise exercise any right of set-off or counterclaim or similar right or remedy if to do so would prevent or limit the making of any Acquisition Utilisation; or

(d) cancel, accelerate or cause repayment or prepayment of any Facility or other amounts owing under the Finance Documents if to do so would prevent or limit the making of any Acquisition Utilisation,

in each case unless (a) a Certain Funds Default has occurred and is continuing or would result from the making of an Acquisition Utilisation, (b) a Certain Funds Representation is incorrect or misleading when made or deemed to be made or (c) a Lender is entitled to do so by virtue of the provisions of Clause 9.1 (*Illegality of a Lender*) **provided that** immediately upon the expiry of the Certain Funds Period all such rights, remedies and entitlements shall be available to the Lenders (subject to Clause 24.17 (*Clean Up Period*)) notwithstanding that they may not have been used or been available for use during the Certain Funds Period.

4.5 **Conditions relating to Optional Currencies**

(a) A currency will constitute an Optional Currency in relation to a Utilisation if:

(i) it is readily available in the amount required and freely convertible into the Base Currency in the Relevant Interbank Market at the Specified Time or, if later, on the date the Agent receives the relevant Utilisation Request and the Utilisation Date for that Utilisation; and

(ii) it is in euro or has been approved by the Agent (acting on the instructions of all the Lenders) on or prior to receipt by the Agent of the relevant Utilisation Request or Selection Notice for that Utilisation.

(b) The Lenders will only be obliged to comply with Clause 30.9 (*Change of currency*) if, on the first day of an Interest Period, no Default is continuing or would result from the change of currency and the Repeating Representations to be made by each Obligor as at that date are true in all material respects.

(c) If the Agent has received a written request from the Company for a currency to be approved under paragraph (a)(ii) above, the Agent will confirm to the Company by the Specified Time:

(i) whether or not the Lenders have granted their approval; and

(ii) if approval has been granted, the minimum amount (and, if required, integral multiples) for any subsequent Utilisation in that currency.

4.6 **Maximum number of Loans**

(a) The Company may not deliver a Utilisation Request if as a result of the proposed Utilisation:

(i) 10 or more Facility A Loans would be outstanding; or

(ii) 4 or more Facility B1 Loans would be outstanding; or

(iii) subject to paragraph (d) of Clause 36.3 (*Reallocation of Facility B Commitments*), 4 or more Facility B2 Loans would be outstanding; or

(iv) subject to paragraph (d) of Clause 36.3 (*Reallocation of Facility B Commitments*), 4 or more Facility B3 Loans would be outstanding; or

(v) 10 or more Facility C Loans would be outstanding.

(b) Any Loan made by a single Lender under Clause 6.2 (*Unavailability of a currency*) shall not be taken into account in this Clause 4.6.

(c) The Borrower may not request that a Loan be divided if as a result of the proposed division 10 or more Loans under the same Facility would be outstanding.

SECTION 3
UTILISATION

5. UTILISATION

5.1 Delivery of a Utilisation Request

The Company may utilise a Facility by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time.

5.2 Completion of a Utilisation Request

(a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

(i) it identifies the Facility to be utilised;

(ii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;

(iii) the currency and amount of the Loan comply with Clause 5.3 (*Currency and amount*); and

(iv) the proposed Interest Period complies with Clause 11 (*Interest Periods*).

(b) A single Utilisation Request may be given in respect of a maximum of three Loans being one Loan under each Facility.

5.3 Currency and amount

(a) The currency specified in a Utilisation Request must be:

(i) in the case of a Facility A Loan, the Base Currency or an Optional Currency;

(ii) in the case of a Facility B1 Loan, the Base Currency or an Optional Currency;

(iii) in the case of a Facility B2 Loan, US Dollars;

(iv) in the case of a Facility B3 Loan, prior to the Redenomination Date, US Dollars and, from the Redenomination Date, euro; and

(v) in the case of a Facility C Loan, the Base Currency or an Optional Currency.

(b) The amount of the proposed Utilisation must be:

(i) in the case of Facility A, Facility B1, Facility B2, Facility B3 (prior to the Redenomination Date) or Facility C, an amount whose Base Currency Amount; or

(ii) in the case of Facility B3, following the Redenomination Date, an amount in euro which,

is not more than the Available Facility (adjusted, where applicable, to take account of any additional Utilisations which are scheduled to take place on or before the relevant Utilisation Date) and which is:

(A) in the case of Facility B2, Facility B3 (prior to the Redenomination Date) or, in the case of Facility A, Facility B1 or Facility C if the currency selected is the Base Currency, a minimum of US$25,000,000 (and equal to such amount or an integral multiple of US$10,000,000 in excess thereof) or, if less, the relevant Available Facility; or

(B) in the case of Facility B3 (following the Redenomination Date) or in the case of Facility A, Facility B1 or Facility C if the currency selected is euro, a minimum of EUR25,000,000 (and equal to such amount or an integral multiple of EUR10,000,000 in excess thereof) or, if less, the relevant Available Facility; or

(C) if the currency selected is an Optional Currency other than euro the minimum amount specified by the Agent pursuant to paragraph (c)(ii) of Clause 4.5 (*Conditions relating to Optional Currencies*) or, if less, the relevant Available Facility,

provided that such minimum amounts shall not apply where the proposed Utilisation is for the purpose of refinancing a maturing Loan in another currency and the relevant Utilisation Request instructs that proceeds shall be applied directly in such refinancing.

5.4 **Lenders' participation**

(a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.

(b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the relevant Available Facility immediately prior to making the Loan.

(c) The Agent shall determine the Base Currency Amount of each Loan which is to be made in an Optional Currency and shall notify each Lender of the amount, currency and the Base Currency Amount of each Loan and the amount of its participation in that Loan, in each case by the Specified Time.

6. OPTIONAL CURRENCIES

6.1 **Selection of currency**

(a) The Borrower shall select the currency of a Loan:

(i) (in the case of an initial Utilisation) in a Utilisation Request; and

(ii) (afterwards in relation to a Term Loan made to it) in a Selection Notice,

in each case delivered by the Specified Time.

(b) If the Borrower fails to issue a Selection Notice in relation to a Loan, the Loan will remain denominated for its next Interest Period in the same currency in which it is then outstanding.

If the Borrower issues a Selection Notice requesting a change of currency and the first day of the requested Interest Period is not a Business Day for the new currency, the Agent shall promptly notify the Borrower and the Lenders and the Loan will remain in the then existing currency (with Interest Periods running from one Business Day until the next Business Day) until the next day which is a Business Day for both currencies, on which day the requested Interest Period will begin.

6.2 **Unavailability of a currency**

If before the Specified Time on any Quotation Day:

(a) a Lender notifies the Agent that the Optional Currency requested is not readily available to it in the amount required, and provides in writing an objectively justified reason therefor; or

(b) a Lender notifies the Agent that compliance with its obligation to participate in a Loan in the proposed Optional Currency would contravene a law or regulation applicable to it,

the Agent will give notice to the Company to that effect by the Specified Time on that day. In this event, any Lender that gives notice pursuant to this Clause 6.2 will be required to participate in the Loan in the Base Currency (in an amount equal to that Lender's proportion of the Base Currency Amount, or in respect of a Rollover Loan, an amount equal to that Lender's proportion of the Base Currency Amount of the Rollover Loan that is due to be made) and its participation will be treated as a separate Loan denominated in the Base Currency during that Interest Period.

6.3 **Change of currency**

(a) If a Term Loan (other than any Facility B3 Loan which is redenominated in accordance with Clause 2.2 (*Redenomination of Facility B3*)) is to be denominated in different currencies during two successive Interest Periods:

(i) if the currency for the second Interest Period is an Optional Currency, the amount of the Term Loan in that Optional Currency will be calculated by the Agent as the amount of that Optional Currency equal to the Base Currency Amount of the Term Loan at the Agent's Spot Rate of Exchange at the Specified Time;

(ii) if the currency for the second Interest Period is the Base Currency, the amount of the Term Loan will be equal to the Base Currency Amount;

(iii) (unless the Agent and the Borrower agree otherwise in accordance with paragraph (b) below) the Borrower shall repay the Term Loan on the last day of the first Interest Period in the currency in which it was denominated for that Interest Period; and

(iv) (**provided that** no Event of Default has occurred which is continuing) the Lenders shall re-advance the Term Loan in the new currency in accordance with Clause 6.5 (*Agent's calculations*).

(b) If the Agent and the Borrower agree (and it is acknowledged that the Agent may require an indemnity in respect of foreign exchange losses which may be suffered by it in connection with the performance of its functions under this Clause from the Company in order for it to so agree), the Agent shall:

(i) apply the amount paid to it by the Lenders pursuant to paragraph (a)(iv) above (or so much of that amount as is necessary) in or towards purchase of an amount in the currency in which the Term Loan is outstanding for the first Interest Period; and

(ii) use the amount it purchases in or towards satisfaction of the Borrower's obligations under paragraph (a)(iii) above.

(c) If the amount purchased by the Agent pursuant to paragraph (b)(i) above is less than the amount required to be repaid by the Borrower, the Agent shall promptly notify the Borrower and the Borrower shall, on the last day of the first Interest Period, pay an amount to the Agent (in the currency of the outstanding Term Loan for the first Interest Period) equal to the difference.

(d) If any part of the amount paid to the Agent by the Lenders pursuant to paragraph (a)(iv) above is not needed to purchase the amount required to be repaid by the Borrower, the Agent shall promptly notify the Borrower and pay the Borrower, on the last day of the first Interest Period that part of that amount (in the new currency).

6.4 **Same Optional Currency during successive Interest Periods**

(a) If a Term Loan is to be denominated in the same Optional Currency during two successive Interest Periods, the Agent shall calculate the amount of the Term Loan in the Optional Currency for the second of those Interest Periods (by calculating the amount of Optional Currency equal to the Base Currency Amount of that Loan at the Agent's Spot Rate of Exchange at the Specified Time) and (subject to paragraph (b) below):

(i) if the amount calculated is less than the existing amount of that Loan in the Optional Currency during the first Interest Period, promptly notify the Borrower and the Borrower shall pay, on the last day of the first Interest Period, an amount equal to the difference; or

(ii) if the amount calculated is more than the existing amount of that Loan in the Optional Currency during the first Interest Period, promptly notify each Lender and, if no Event of Default is continuing, each Lender shall, on the last day of the first Interest Period, pay its participation in an amount equal to the difference.

(b) If the calculation made by the Agent pursuant to paragraph (a) above shows that the amount of the Loan in the Optional Currency for the second of those Interest Periods

converted into the Base Currency at the Agent's Spot Rate of Exchange at the Specified Time has increased or decreased by less than 5 per cent. compared to its Base Currency Amount (taking into account any payments made pursuant to paragraph (a) above), no notification shall be made by the Agent and no payment shall be required under paragraph (a) above.

6.5 **Agent's calculations**

(a) All calculations made by the Agent pursuant to this Clause 6.5 will take into account any repayment, prepayment, consolidation or division of Loans to be made on the last day of the first Interest Period.

(b) Each Lender's participation in a Loan will, subject to paragraph (a) above, be determined in accordance with paragraph (b) of Clause 5.4 (*Lenders' participation*).

SECTION 4
REPAYMENT, PREPAYMENT AND CANCELLATION

7. REPAYMENT

7.1 Repayment of Facility A Loans

Subject to Clause 8 (*Conversion of Facility A*), the Borrowers shall repay each Facility A Loan on the last day of its Interest Period. If such Loan is to be refinanced with a Rollover Loan, the amount of each Facility A Loan required to be repaid shall be set off against the amount of the applicable Rollover Loan. All Facility A Loans shall be repaid on, or prior to, the Termination Date relating thereto.

7.2 Repayment of Facility B Loans and Facility C Loans

(a) The Borrowers under Facility B1 shall repay the aggregate Facility B1 Loans in full on the Termination Date in respect of Facility B1.

(b) The Borrowers under Facility B2 shall repay the aggregate Facility B2 Loans in full on the Termination Date in respect of Facility B2.

(c) The Borrowers under Facility B3 shall repay the aggregate Facility B3 Loans in full on the Termination Date in respect of Facility B3.

(d) The Borrowers under Facility C shall repay the aggregate Facility C Loans in full on the Termination Date in respect of Facility C.

8. CONVERSION OF FACILITY A

8.1 First Term Out Option

(a) The Company shall be entitled to request that:

(i) all or part (being an amount in accordance with Clause 5.3 (*Currency and amount*)) of the amount of each Facility A Loan (*pro rata* amongst the Lenders of such Facility A Loan) forming part of a Utilisation and outstanding on the Initial Facility A Termination Date be converted on the Initial Facility A Termination Date into a term loan maturing on the First Term Out Option Termination Date; and

(ii) all or part of the Facility A Commitments (being an amount in accordance with Clause 5.3 (*Currency and amount*)) which have not been drawn down prior to the Initial Facility A Termination Date be drawn down by way of Facility A Term Loans by a Borrower on the Initial Facility A Termination Date,

by delivering to the Agent a Conversion Request not less than 5 Business Days nor more than 30 days prior to the Initial Facility A Termination Date.

(b) Any outstanding Facility A Loans not requested to be so converted shall be repaid in full on the Initial Facility A Termination Date.

(c) If:

(i) the Borrower has delivered a Conversion Request under paragraph (a) of this Clause 8.1; and

(ii) the conditions in Clauses 4.3 (*Further Conditions Precedent*) would have been met if the Facility A Loan to be converted had been a new Facility A Loan and are met in respect of any new Facility A Term Loan to be drawn down),

then:

(A) all or the part of each Facility A Loan which is specified in the Conversion Request and is outstanding on the Initial Facility A Termination Date (equal to the amount specified in the Conversion Request as being requested to be converted) shall automatically be converted into a term loan in the currency in which the relevant outstanding Facility A Loan is denominated at the time of the Conversion Request and shall not be repayable on the Initial Facility A Termination Date pursuant to Clause 7.1 (*Repayment of Facility A Loans*) but shall instead be repayable in full on the First Term Out Option Termination Date; and

(B) a Facility A Term Loan (equal to the amount specified in the Conversion Request as being the amount of the undrawn Facility A Commitments to be drawn down by way of Facility A Term Loans in accordance with Clause 8.1(a)(ii) above) shall be made to the relevant Borrower on the Initial Facility A Termination Date and shall not be repayable pursuant to Clause 7.1 (*Repayment of Facility A Loans*) but shall instead be repayable in full on the First Term Out Option Termination Date.

8.2 **Second Term Out Option**

(a) The Company shall be entitled to request that, following a conversion and/or draw down in accordance with Clause 8.1 (*First Term Out Option*), the final date for repayment of all or part (being an amount in accordance with Clause 5.3 (*Currency and amount*)) of the amount of the Facility A Term Loan(s) (*pro rata* amongst the Lenders) be extended to the Second Term Out Option Termination Date, by delivering to the Agent a Conversion Request, not less than 5 Business Days nor more than 30 days prior to the First Term Out Option Termination Date.

(b) Any amount of the Facility A Term Loan(s) outstanding on the First Term Out Option Termination Date which is not the subject of a Conversion Request pursuant to paragraph (a) of this Clause 8.2 shall be repaid in full on the First Term Out Option Termination Date.

(c) If:

(i) the Borrower has delivered a Conversion Request under paragraph (a) of this Clause 8.2; and

(ii) the conditions in Clauses 4.3 (*Further Conditions Precedent*) would have been met if the Facility A Term Loan(s) to be extended had been a new Facility A Loan(s),

then all or the part of each Facility A Term Loan which is specified in the Conversion Request and is outstanding on the First Term Out Option Termination Date (equal to the amount specified in the Conversion Request as being requested to be extended) shall not be repayable on the First Term Out Option Termination Date pursuant to Clause 8.1 (*First Term Out Option*) but shall instead be repayable in full on the Second Term Out Option Termination Date.

8.3 **Conversion Requests and Interest**

(a) Each Conversion Request shall, once delivered, be unconditional and irrevocable.

(b) The Agent shall forward a copy of any Conversion Request to each Lender as soon as practicable after receipt.

(c) The first Interest Period for a Facility A Term Loan shall commence on the Initial Facility A Termination Date, and shall be of a duration determined in accordance with Clause 11 (*Interest Periods)* **provided that** such Interest Period shall end on the First Term Out Option Termination Date. Where a Conversion Request has been delivered pursuant to paragraph (a) of Clause 8.2 (*Second Term Out Option*), no Interest Period for a Facility A Term Loan may extend beyond the Second Term Out Option Termination Date.

9. PREPAYMENT AND CANCELLATION

9.1 **Illegality of a Lender**

If, at any time, it is or will become unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Utilisation:

(a) that Lender shall promptly notify the Agent upon becoming aware of that event (specifying the reason for such unlawfulness and the date on which such unlawfulness occurred or will occur, being no earlier than the last day of any applicable grace period permitted by law (the "**Relevant Date**")) and, in any event, at a time which permits the Company to repay that Lender's participation on the date such repayment is required to be made;

(b) upon the Agent notifying the Company, the Commitment of that Lender will be immediately cancelled; and

(c) the Company shall, on the last day of the Interest Period for each Loan ending immediately prior to the Relevant Date and occurring after the Agent has notified the Company or, if earlier, the Relevant Date, repay that Lender's participation in the Loans together with accrued interest and all other amounts owing to that Lender under the Finance Documents.

9.2 **Change of Control**

(a) In this Clause 9.2 a "**Change of Control**" occurs if:

(i) CEMEX Parent ceases to:

(A) be entitled to (whether by way of ownership of shares (directly or indirectly), proxy, contract, agency or otherwise):

(1) cast, or control the casting of, at least 51 per cent. of the maximum number of votes that might be cast at a general meeting of the Company;

(2) appoint or remove all, or the majority, of the directors or other equivalent officers of the Company; or

(3) give directions with respect to the operating and financial policies of the Company which the directors or other equivalent officers of the Company are obliged to comply with; or

(B) hold at least 51 per cent. of the common shares in the Company;

(ii) prior to the earlier of (a) the Acquisition of BidCo Date, and (b) the date on which BidCo becomes a Guarantor, BidCo ceases to be a Subsidiary of CEMEX Parent (unless prior to or simultaneously with BidCo ceasing to be a Subsidiary of CEMEX Parent, all or substantially all of the assets of BidCo have been or are sold to a member of the Group); or

(iii) prior to the earlier of (a) the Acquisition of BidCo Date, and (b) the date on which BidCo becomes a Guarantor, Target ceases to be a member of the BidCo Group or the Group.

(b) Upon the occurrence of a Change of Control (and notwithstanding any other term of this Agreement) each Lender:

(i) shall be under no obligation to fund its share of any proposed Utilisation after such date;

(ii) may by three Business Days' notice to the Agent, cancel all of its Available Commitments (in which case they shall be so cancelled); and

(iii) may by three Business Days' notice to the Agent, require that its share of all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents, shall become immediately due and payable (in which case it shall so become).

9.3 **Voluntary cancellation**

(a) The Company may, if it gives the Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum amount of US$25,000,000 for Facility A, Facility B1,

Facility B2, Facility B3 (prior to the Redenomination Date) and Facility C and a minimum amount of €25,000,000 of Facility B3 following the Redenomination Date) of any Facility. Any cancellation under this Clause 9.3 shall reduce rateably the Commitments of the Lenders under that Facility.

(b) If the Company makes a cancellation pursuant to paragraph (a) above of Facility B2 Loan or Facility B3, the amount of such cancellation shall be applied pro rata to Facility B2 and Facility B3.

9.4 **Automatic Cancellation**

At the close of business on the last day of the Availability Period in respect of each Facility, the Available Commitment of each Lender under such Facility shall be (if it has not already been) cancelled and reduced to zero.

9.5 **Voluntary prepayment of Loans**

(a) A Borrower may, if the Company gives the Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of any Loan (but, if in part, being an amount that reduces, in relation to a Facility A Loan, a Facility B1 Loan, a Facility B2 Loan, a Facility C Loan or, prior to the Redenomination Date, a Facility B3 Loan, the Base Currency Amount of that Loan by a minimum amount of US$25,000,000 or, in relation to a Facility B3 Loan following the Redenomination Date, the amount of that Loan by a minimum amount of €25,000,000).

(b) If a Borrower makes a prepayment pursuant to paragraph (a) above of a Facility B2 Loan or a Facility B3 Loan, the amount of such prepayment shall be applied pro rata to prepay the Facility B2 Loans and the Facility B3 Loans.

(c) A Loan may be voluntarily prepaid at any time.

9.6 **Right of repayment and cancellation in relation to a single Lender**

(a) If:

(i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (c) of Clause 14.2 (*Tax gross-up*); or

(ii) any Lender claims indemnification from an Obligor under Clause 14.3 (*Tax indemnity*) or Clause 15.1 (*Increased costs*),

the Company may, whilst the circumstance giving rise to the requirement or indemnification continues, give the Agent notice of cancellation of the Commitment of that Lender and its intention to procure the repayment of that Lender's participation in the Loans.

(b) On receipt of a notice referred to in paragraph (a) above, the relevant Commitment of that Lender shall immediately be reduced to zero.

(c) On the last day of each Interest Period which ends after the Company has given notice under paragraph (a) above (or, if earlier, the date specified by the Company in that notice), each Borrower shall repay that Lender's participation in the Loans to which such Interest Period relates.

9.7 **Mandatory Prepayment from Target Disposal Proceeds**

(a) In this Clause 9.7:

"**Asset Disposal Proceeds**" means the cash consideration received by any member of Target Group, by any member of the BidCo Group or by CEMEX Parent or any of its Subsidiaries (including any amount receivable in repayment of intercompany debt) for any Disposal of BidCo, Target or any of its or their assets which takes place at any time prior to the earlier of (i) the Acquisition of BidCo Date and (ii) the date on which BidCo becomes a Guarantor (except in respect of any Excluded Asset Disposal Proceeds) after deducting:

(i) any expenses which are incurred by the disposing party of such assets with respect to that disposing party of such assets with respect to that Disposal owing to persons who are not members of the relevant Group; and

(ii) any Tax incurred and required to be paid by the disposing party in connection with that Disposal (as reasonably determined by the disposal party on the basis of rates existing at the time of the disposal and taking account of any available credit, deduction or allowance.

"**Disposal**" means a sale, lease, licence, transfer, loan or other disposal by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions).

"**Excluded Asset Disposal Proceeds**" means:

(i) any proceeds of any Disposal of BidCo, Target, any Subsidiary of Target, or any of its or their assets to another member of the BidCo Group, the Company or any member of the Group;

(ii) any proceeds of a Disposal made by any member of the Target Group which takes place after the Acquisition of Target Date where the Company notifies the Agent that any cash amount of such proceeds are, or are to be, applied in repayment or prepayment of Existing Target Debt, **provided that** any cash amount of such proceeds are so applied as soon as reasonably practicable (but in any event within 45 days, or such longer period as is equal to the notice period required to be given for voluntary prepayments under the documentation evidencing the relevant Existing Target Debt) after receipt; and

(iii) any proceeds of a Disposal made after the Acquisition of Target Date where such proceeds are in an amount of less than US$25,000,000 (but only to the extent that the aggregate amount of such proceeds in any financial year of the Company does not exceed US$100,000,000).

"**Excluded Target Disposal Proceeds**" means:

(i) any proceeds of a Disposal made by any member of the Target Group which takes place after the Acquisition of Target Date where the Company notifies the Agent that any cash amount of such proceeds are, or are to be, applied in repayment or prepayment of Existing Target Debt, **provided that** any cash amount of such proceeds are so applied as soon as reasonably practicable (but in any event within 45 days, or such longer period as is equal to the notice period required to be given for voluntary prepayments under the documentation evidencing the relevant Existing Target Debt) after receipt;

(ii) any proceeds of a Disposal made by any member of the Target Group after the earlier of (i) the Acquisition of BidCo Date and (ii) the date on which BidCo becomes a Guarantor, where the acquiring entity is a member of the Group or the BidCo Group;

(iii) any proceeds of a Disposal made after the earlier of (i) the Acquisition of BidCo Date and (ii) the date on which BidCo becomes a Guarantor, pursuant to a Permitted Securitisation; and

(iv) any proceeds of a Disposal made after the Acquisition of Target Date where such proceeds are in an amount of less than US$25,000,000 (but only to the extent that the aggregate amount of such proceeds (together with any proceeds referred to in paragraph (iii) of the definition of Excluded Asset Disposal Proceeds where such proceeds are realised in the same financial year) in any financial year of the Company does not exceed US$100,000,000).

"**Target Disposal Proceeds**" means the cash consideration received by any member of the Target Group (including any amount receivable in repayment of intercompany debt) for any Disposal made by any member of the Target Group which takes place after (but including) the earlier of (i) the Acquisition of BidCo Date and (ii) the date on which BidCo becomes a Guarantor (except for Excluded Target Disposal Proceeds) after deducting:

(i) any expenses which are incurred by any member of the Target Group with respect to that Disposal owing to persons who are not members of the Group; and

(ii) any Tax incurred and required to be paid by the disposing party in connection with that Disposal (as reasonably determined by the disposing party, on the basis of rates existing at the time of the Disposal and taking account of any available credit, deduction or allowance).

(b) The Company shall ensure that the Borrowers prepay any outstanding Facility A Loans in the amount of (aa) any Target Disposal Proceeds and (bb) any Asset Disposal Proceeds. Such prepayment shall occur either:

(i) at the Company's election and **provided that** there is no Event of Default continuing, at the end of the then current Interest Period for the relevant Facility A Loans (or, but only in respect of any Asset Disposal Proceeds, if

the then current Interest Period for the relevant Facility A Loans ends within 30 days of the date of the receipt of those proceeds, the end of the following Interest Period); or

(ii) reasonably promptly upon receipt of those proceeds but in any case within 30 days of receipt of such proceeds (or, if sooner, at the end of the then current Interest Period for the relevant Facility A Loans).

(c) The Company shall (i) ensure that any Excluded Target Disposal Proceeds and any Excluded Asset Disposal Proceeds are applied for the purpose and within the required period specified in the definition thereof and, if requested to do so by the Agent, shall promptly deliver a certificate to the Agent at the time of such application and at the end of such period confirming the amount (if any) which has been so applied within the requisite time periods provided for in that definition and (ii) if requested to do so by the Agent, promptly deliver a certificate to the Agent confirming any Disposal that has given rise to any Excluded Asset Disposal Proceeds and setting out reasonable details of the relevant Disposal.

9.8 **Mandatory Prepayment from Fundraisings**

(a) In this Clause 9.8:

"**Excluded Fundraisings**" means:

(i) any bank loans;

(ii) any transaction or any part of any transaction which is between entities in the Group or entities whose ultimate parent company is CEMEX Parent;

(iii) Permitted Securitisations; and

(iv) any issue of "hybrid" or "perpetual" bonds, notes or other securities which are not required to be recorded as a liability on the balance sheet of the issuing company and which are accounted for as 100 per cent. equity, in each case, in accordance with applicable GAAP in effect as at the date of such issue and which by their terms are stated only to be repayable only after the Facilities have been repaid in full (or are otherwise subordinated on terms satisfactory to the Majority Lenders).

"**Fundraisings**" means the net cash proceeds received by any member of the Group from: (i) any issue of shares for cash or cash equivalent proceeds by the Company; and (ii) the issue of any bonds, notes or other debt securities by any member of the Group on the capital markets.

(b) The Company shall ensure that the Borrowers prepay the outstanding Facility A Loans in the amount of any Fundraisings (other than Excluded Fundraisings). Such prepayment shall occur either:

(i) at the Company's election and **provided that** there is no Event of Default continuing, at the end of the then current Interest Period for the relevant Facility A Loans; or

(ii) reasonably promptly upon receipt of those proceeds but in any case within 30 days of receipt of such proceeds (or, if sooner, at the end of the then current Interest Period for the relevant Facility A Loans).

9.9 **Restrictions**

(a) Any notice of cancellation or prepayment given by any Party under this Clause 9 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

(b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs (if any), without premium or penalty.

(c) Unless a contrary indication appears in this Agreement (and, in particular, subject to paragraph (d) below), any part of Facility A, Facility B1, Facility B2, Facility B3 or Facility C which is prepaid may not be re-borrowed in accordance with the terms of this Agreement.

(d) Prior to the Initial Facility A Termination Date only, the Borrowers may re-borrow those parts of Facility A that have been voluntarily prepaid pursuant to Clause 9.5 (*Voluntary prepayment of Loans*).

(e) No Borrower shall repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

(f) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

(g) If the Agent receives a notice under this Clause 9 it shall promptly forward a copy of that notice to either the relevant Borrower or the affected Lenders, as appropriate.

SECTION 5
COSTS OF UTILISATION

10. INTEREST

10.1 Calculation of interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

(a) Margin;

(b) LIBOR or, in relation to any Loan in euro, EURIBOR; and

(c) Mandatory Cost, if any.

10.2 Payment of interest

On the last day of each Interest Period relating to a Loan each Borrower shall pay accrued interest on the Loan to which that Interest Period relates (and, if the Interest Period is longer than six Months, on the dates falling at six Monthly intervals after the first day of that Interest Period).

10.3 Default interest

(a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is two per cent higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration of one Month. Any interest accruing under this Clause 10.3 shall be immediately payable by the Obligor on demand by the Agent.

(b) If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:

(i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and

(ii) the rate of interest applying to the overdue amount during that first Interest Period shall be two per cent. higher than the rate which would have applied if the overdue amount had not become due.

(c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

10.4 Notification of rates of interest

The Agent shall promptly notify the Lenders and the relevant Borrower of the determination of a rate of interest under this Agreement.

11. INTEREST PERIODS

11.1 Selection of Interest Periods

(a) The Company may select an Interest Period for a Loan in the Utilisation Request for that Loan or (if the Loan has already been borrowed) in a Selection Notice.

(b) Each Selection Notice for a Loan is irrevocable and must be delivered to the Agent by the Borrower not later than the Specified Time.

(c) If the Borrower fails to deliver a Selection Notice to the Agent in accordance with paragraph (b) above, the relevant Interest Period will be one Month.

(d) Subject to this Clause 11, the Company may select an Interest Period of one, two, three or six Months, or any other period agreed between the Company and the Agent (acting on the instructions of all the Lenders participating in the relevant Facility).

(e) An Interest Period for a Loan shall not extend beyond the Termination Date applicable to the Facility under which the Loan was made.

(f) Each Interest Period for a Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.

(g) A Facility A Loan (other than a Facility A Term Loan) has one Interest Period only.

(h) Prior to the Syndication Date, Interest Periods shall be one month or such other period as the Agent and the Company may agree and any Interest Period which would otherwise end during the month preceding or extend beyond the Syndication Date shall end on the Syndication Date.

11.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

11.3 Consolidation and division of Loans

(a) Subject to paragraph (b) below, if two or more Interest Periods:

(i) relate to either Facility A Term Loans, Facility B1 Loans, Facility B2 Loans, Facility B3 Loans or Facility C Loans in the same currency; and

(ii) end on the same date;

those Loans will, unless the Borrower specifies to the contrary in the Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Loan on the last day of the Interest Period.

(b) Subject to Clause 4.6 (*Maximum number of Loans*) and Clause 5.3 (*Currency and amount*), if the Borrower requests in a Selection Notice that a Loan be divided into two or more Loans, that Loan will, on the last day of its Interest Period, be so divided into, in the case of any Loan under Facility A, Facility B1, Facility B2, Facility B3 (prior to the Redenomination Date) or Facility C, the Base Currency Amounts or, in

the case of a Facility B3 Loan following the Redenomination Date, such amounts in euro specified (in each case) in that Selection Notice, being an aggregate Base Currency Amount or, as the case may be, amount in euro, equal to the Base Currency Amount or, as the case may be, amount in euro, of the Loan immediately before its division.

12. CHANGES TO THE CALCULATION OF INTEREST

12.1 Absence of quotations

Subject to Clause 12.2 (*Market disruption*), if LIBOR or, if applicable, EURIBOR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by the Specified Time on the Quotation Day, the applicable LIBOR or EURIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

12.2 Market disruption

(a) If a Market Disruption Event occurs in relation to a Loan for any Interest Period, then the rate of interest on each Lender's share of that Loan for the Interest Period shall be the rate per annum which is the sum of:

(i) the Margin;

(ii) the rate notified to the Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in that Loan from whatever source it may reasonably select; and

(iii) the Mandatory Cost, if any, applicable to that Lender's participation in that Loan.

(b) In this Agreement "**Market Disruption Event**" means:

(i) at or about noon on the Quotation Day for the relevant Interest Period the Screen Rate not being available and none or only one of the Reference Banks supplying a rate to the Agent to determine LIBOR or, if applicable, EURIBOR for the relevant currency and Interest Period; or

(ii) before close of business in London on the Quotation Day for the relevant Interest Period, the Agent receiving notifications from a Lender or Lenders (in either case whose participations in a Loan exceed 50 per cent. of that Loan) that the cost to it or them of obtaining matching deposits in the Relevant Interbank Market would be in excess of LIBOR or, if applicable, EURIBOR.

12.3 Alternative basis of interest or funding

(a) If a Market Disruption Event occurs and the Agent or the Company so requires, the Agent and the Company shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest in respect of the relevant Loan.

(b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders participating in the relevant Loan and the Company, be binding on all Parties.

12.4 **Break Costs**

(a) Each Borrower shall, within three Business Days of demand by a Lender, pay to that Lender its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by that Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum and its Break Costs (if any) attributable to any Reallocation made in accordance with Clause 36.3 (*Reallocation of Facility B Commitments*).

(b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming in reasonable detail the amount of its Break Costs for any Interest Period in which they accrue.

13. **FEES**

13.1 **Ticking fee**

(a) The Company shall pay to the Agent (for the account of each Lender) a ticking fee in respect of each Facility in the Base Currency computed at the rate of:

(i) 0.05 per cent. per annum on that Lender's Available Commitment under each Facility for the period commencing on the date falling 60 days after 26 October 2006 and ending on (but excluding) the date falling three Months thereafter; and

(ii) 0.075 per cent. per annum on that Lender's Available Commitment under each Facility for the period commencing on last day of the period referred to in paragraph (i) and ending on the last day of the Availability Period applicable to that Facility,

provided that the ticking fee shall cease to accrue from the First Utilisation Date or, if earlier, the date on which the Available Commitments of each Lender under each Facility is cancelled and reduced to zero.

(b) The accrued ticking fees set out above are payable on the First Utilisation Date or, if all or part of the Facilities are cancelled, on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.

13.2 **Commitment fee**

(a) The Company shall pay to the Agent (for the account of each Lender) a commitment fee in respect of each Facility in the Base Currency computed at the rate of 30 per cent. per annum of the applicable Margin from time to time on that Lender's Available Commitment under each Facility for the period commencing on the First Utilisation Date and ending on the last day of the Availability Period applicable to that Facility or, if earlier, the date on which the Available Commitments of each Lender under a particular Facility is cancelled and reduced to zero.

(b) The accrued commitment fees set out above are payable on the last day of each successive period of three Months which ends during the Availability Period, on the last day of the Availability Period and, if cancelled in full, on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.

13.3 **Up-front Fee**

The Company shall pay to the relevant Finance Parties an up-front fee in the amount and at the times agreed in the relevant Fee Letter.

13.4 **Agency fee**

The Company shall pay to (or procure payment to) the Agent (for its own account) an agency fee in the amount and at the times agreed in the relevant Fee Letter.

13.5 **Second Term Out Option Fee**

If the option set out in Clause 8.2 (*Second Term Out Option*) is exercised, the Company shall pay to the Agent (for the account of each relevant Lender under the Facility A Term Loan(s) *pro rata* to its share therein) a second term out option fee in an amount equal to 0.05 per cent. flat on the amount of each Facility A Term Loan which is subject to an extension of its final maturity pursuant to Clause 8.2 (*Second Term Out Option)*. Such conversion fee shall be payable by the Company to the Agent on the First Term Out Option Termination Date.

SECTION 6
ADDITIONAL PAYMENT OBLIGATIONS

14. **TAX GROSS-UP AND INDEMNITIES**

14.1 **Definitions**

(a) In this Clause 14:

"**Protected Party**" means a Finance Party which is or will be subject to any liability or required to make any payment, for or on account of Tax, in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

"**Qualifying Lender**" means a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document and is:

(i) a legal person or entity (including, for the avoidance of doubt, any securitisation trust or fund) habitually resident for taxation purposes in a Qualifying State which is not acting through a territory considered as a tax haven pursuant to Spanish laws and regulations or through a permanent establishment in Spain; or

(ii) a legal person or entity (including, for the avoidance of doubt, any securitisation trust or fund) which, as a result of any applicable double taxation treaty, is entitled to receive any payments made by a Borrower to such legal person or entity hereunder without any deduction or withholding for or on account of Tax; or

(iii) a Domestic Lender.

"**Qualifying State**" means a member state of the European Union (other than Spain).

"**Tax Credit**" means a credit against, relief or remission from, or repayment of, any Tax.

"**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment made under a Finance Document.

"**Tax Payment**" means either the increase in a payment made by an Obligor to a Finance Party under Clause 14.2 (*Tax gross-up*) or a payment under Clause 14.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 14 a reference to " **determines**" or "**determined**" means a determination made in the absolute good faith discretion of the person making the determination.

14.2 **Tax gross-up**

(a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law or regulation.

(b) The Company or a Lender shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. If the Agent receives such notification from a Lender it shall notify the Company and that Obligor.

(c) If a Tax Deduction is required by law or regulation to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due and payable if no Tax Deduction had been required.

(d) An Obligor is not required to make an increased payment to a Lender under paragraph (c) above for a Tax Deduction in respect of Tax imposed by Spain from a payment of interest on a Loan, if on the date on which the payment falls due:

(i) the payment could have been made to the relevant Lender without a Tax Deduction if it was a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or treaty, or any published practice or concession of any relevant taxing authority; or

(ii) the relevant Lender is a Qualifying Lender under paragraph (ii) of the definition of "Qualifying Lender" and the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without any Tax Deduction if the Lender had complied with its obligations under paragraph (g) below.

(e) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law or regulation.

(f) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Agent for the Finance Party entitled to the payment an original receipt (or certified copy thereof) or if unavailable such other evidence as is reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

(g) A Lender that is a Qualifying Lender under paragraph (ii) of the definition of "Qualifying Lender" and each Obligor which is required to make a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction

14.3 **Tax indemnity**

(a) The Company shall (within five Business Days of demand by the Agent) pay to a Protected Party an amount equal to the amount of any Tax assessed on that Protected Party (together with any interest, costs or expenses payable, directly or indirectly, or incurred in connection therewith) in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

(b) Paragraph (a) of this Clause 14.3 shall not apply:

(i) with respect to any Tax assessed on a Finance Party:

(A) under the laws and regulations of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for Tax purposes; or

(B) under the laws and regulations of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or

(ii) to the extent a loss, liability or cost:

(A) is compensated for by an increased payment under Claus 14.2 (*Tax gross-up*); or

(B) would have been compensated for by an increased payment under Clause 14.2 (*Tax gross-up*) but was not so compensated solely because one of the exclusions in paragraph (d) of Clause 14.2 (*Tax gross-up*) applied.

(c) A Protected Party making, or intending to make a claim pursuant to paragraph (a) of this Clause 14.3 shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Company.

(d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 14.3, notify the Agent.

14.4 **Tax Certificates**

(a) Without prejudice to the other provisions of this Clause 14, in relation to any exemption from or application of a rate lower than that of general application pursuant to any legislation in Spain or any double taxation treaty, or pursuant to any other cause relating to residence status, any Lender which is not a Domestic Lender shall supply the Company, through the Agent, prior to the interest payment date with a certificate of residence issued by the pertinent fiscal administration, in the case of a Qualifying Lender which is not a Domestic Lender, accrediting such Qualifying Lender as resident for Tax purposes in a Qualifying State or, as the case may be, accrediting such Lender as resident for Tax purposes in a State which has signed and ratified a double taxation treaty with Spain.

(b) As such certificates referred to in paragraph (a) of this Clause 14.4 are, at the date hereof, valid only for a period of one year, each such Lender will be required to so supply a further such certificate upon expiry of the previous certificate in relation to any further payment of interest.

(c) If any Lender which has supplied a certificate under Clause 14.4(a) becomes aware that any information contained in that certificate is not correct in all material respects throughout the period for which that certificate is valid, it shall, as soon as practicable, supply the Agent with details of that matter, following which the Agent shall supply those details to the Company, and, if appropriate, that Lender shall promptly supply a new certificate pursuant to Clause 14.4(a) above.

14.5 **Tax Credit**

If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

(a) a Tax Credit is attributable either to an increased payment of which that Tax Payment forms part, or to that Tax Payment; and

(b) that Finance Party has obtained, utilised and retained that Tax Credit,

the Finance Party shall pay an amount to the Obligor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

14.6 **Stamp Taxes**

The Company shall pay and, within five Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document except for any such Tax payable in connection with the entering into of a Transfer Certificate.

14.7 **Value Added Tax**

(a) All consideration expressed to be payable under a Finance Document by any Party to a Finance Party shall be deemed to be exclusive of any amount in respect of VAT. If VAT is chargeable on any supply made by any Finance Party to any Party in connection with a Finance Document, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the VAT and such Finance Party shall promptly provide an appropriate VAT invoice to such Party.

(b) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify that Finance Party against all amounts in respect of VAT incurred by the Finance Party in respect of the costs or expenses to the extent that the Finance Party reasonably determines that it is not entitled to credit or repayment of the VAT.

15. INCREASED COSTS

15.1 Increased costs

(a) Subject to Clause 15.2 *(Increased cost claims)* and Clause 15.3 (*Exceptions*) the Company shall, within three Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:

(i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or

(ii) compliance with any law or regulation,

in each case made after the date of this Agreement.

(b) In this Agreement "**Increased Costs**" means, without duplication:

(i) a reduction in the rate of return from a Facility or on a Finance Party's (or its Affiliate's) overall capital;

(ii) an additional or increased cost; or

(iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitments or funding or performing its obligations under any Finance Document.

15.2 Increased cost claims

(a) A Finance Party intending to make a claim pursuant to Clause 15.1 (*Increased costs*) shall notify the Agent of the event giving rise to the claim and a calculation evidencing in reasonable detail the amount of such Increased Costs to be claimed by such Finance Party, following which the Agent shall promptly notify the Company and provide the Company with such calculations.

(b) Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

15.3 Exceptions

(a) Clause 15.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

(i) attributable to a Tax Deduction required by law or regulation to be made by an Obligor;

(ii) compensated for by Clause 14.3 (*Tax indemnity)* (or would have been compensated for under Clause 14.3 (*Tax indemnity)* but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 14.3 (*Tax indemnity*) applied);

(iii) compensated for by the payment of the Mandatory Cost; or

(iv) attributable to the breach by the relevant Finance Party or its Affiliates of any law or regulation; or

(v) attributable to the implementation of or compliance with the "International Convergence of Capital Measurements and Capital Standards—a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement ("**Basel II**") or any other law or regulation that implements Basel II (whether such implementation or compliance is by a government, governmental regulator, Finance Party or an Affiliate thereof).

(b) In this Clause 15.3, a reference to a "**Tax Deduction**" has the same meaning given to the term in Clause 14.1 *(Definitions)*.

16. OTHER INDEMNITIES

16.1 Currency indemnity

(a) If any sum due from an Obligor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

(i) making or filing a claim or proof against that Obligor; or

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

16.2 Other indemnities

(a) Each Obligor shall, within five Business Days of demand, indemnify each Finance Party against any cost, loss or liability not otherwise compensated under the provisions of this Agreement and excluding any lost profits, consequential or indirect damages (other than interest or default interest) incurred by that Finance Party as a result of its Commitment or the making of any Loan under the Finance Documents as a result of:

(i) the occurrence of any Event of Default;

(ii) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 29 (*Sharing among the Finance Parties*);

(iii) funding, or making arrangements to fund, its participation in a Loan requested by the Company in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or

(iv) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Company.

(b) The Company will indemnify and hold harmless each Finance Party and each of their respective directors, officers, employees, agents, advisors and representatives (each being an "**Indemnified Person**") from and against any and all claims, damages, losses, liabilities, costs, legal expenses and other expenses (all together "**Losses**") which have been incurred by or awarded against any Indemnified Person, in each case arising out of or in connection with any claim, investigation, litigation or proceeding (or the preparation of any defence with respect thereto) commenced or threatened by any person in relation to any of the Finance Documents (only in so far as such claim, investigation, litigation or proceeding relates to the use of proceeds of the Facilities towards the acquisition of Target Shares (and any Target ADRs) by the Company or BidCo (or any person acting in concert with the Company or BidCo)) except to the extent such Losses or claims result from such Indemnified Person's negligence or misconduct or a breach of any term of any Finance Document by an Indemnified Person **provided that**:

(i) the Indemnified Party shall as soon as reasonably practicable inform the Company and CEMEX Parent of any circumstances of which it is aware and which would be reasonably likely to give rise to any such claim, investigation, litigation or proceeding (whether or not a claim, investigation, litigation or proceeding has occurred or been threatened);

(ii) the Indemnified Party will, where reasonable and practicable, and taking into account the provisions of this Agreement, give the Company and CEMEX Parent an opportunity to consult with it with respect to the conduct or settlement of any such claim, investigation, litigation or proceeding;

(iii) an Indemnified Party will provide the Company on request (and, to the extent practicable without any waiver of legal professional privilege or breach of confidentiality obligation) with copies of material correspondence in relation to the Losses and allow the Company or its appointed representative to attend all material meetings in relation to the Losses and receive copies of material legal advice obtained by the Indemnified Party in relation to the Losses;

(iv) the Company will keep strictly confidential all information received by it in connection with the Losses and will not disclose any information to any third party without the prior written consent of the Indemnified Party (except as required by any applicable law);

(v) no Obligor shall be liable for any settlement of the Losses unless the Company has consented to that settlement; and

(vi) no Indemnified Party shall be required to comply with paragraphs (i), (ii) or (iii) nor shall paragraph (v) apply unless the Indemnified Party is and continues to be indemnified on a current basis for its costs and expenses.

Any third party referred to in this paragraph (b) may rely on this Clause 16.2 subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.

16.3 **Indemnity to the Agent**

The Company shall (or shall procure that another Obligor will) promptly indemnify the Agent against any cost, loss or liability directly related to this Agreement incurred by the Agent (acting reasonably and otherwise than by reason of the Agent's gross negligence or wilful misconduct) as a result of:

(a) investigating any event which it reasonably believes (acting prudently and, if possible, following consultation with the Company) is a Default; or

(b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

17. MITIGATION BY THE LENDERS

17.1 **Mitigation**

(a) Each Finance Party shall, in consultation with the Company, take all reasonable steps to mitigate any circumstances which arise after the date of this Agreement and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 9.1 (*Illegality of a Lender*), Clause 14 (*Tax Gross-up and Indemnities)* or Clause 15 (*Increased Costs)* or Schedule 4 *(Mandatory Cost Formulae)* including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

(b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

17.2 **Limitation of liability**

(a) The Company shall (or shall procure that another Obligor will) indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 17.1 (*Mitigation*).

(b) A Finance Party is not obliged to take any steps under Clause 17.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

18. **COSTS AND EXPENSES**

18.1 **Transaction expenses**

(a) The Company shall within 15 days of receipt of a demand (and delivery of the relevant receipts, invoices or other documentary evidence), pay the Agent and each Arranger the amount of all costs and expenses (including legal fees) reasonably incurred by any of them in connection with the negotiation, preparation, printing and execution of the Finance Documents and the syndication of the Facilities.

(b) The Company shall within 15 days of receipt of demand, pay the Agent and each Arranger the amount of all documented costs and expenses (including legal fees) reasonably incurred by any of them in connection with the negotiation, preparation, printing and execution of any Finance Documents executed after the date of this Agreement.

18.2 **Amendment costs**

If (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 30.9 (*Change of currency)*, the Company shall, within five Business Days of demand, reimburse the Agent, the Arranger and each Lender for the amount of all costs and expenses (including legal fees, but in this case, only the legal fees of one law firm in each relevant jurisdiction acting on behalf of all the Lenders) reasonably incurred by such parties in responding to, evaluating, negotiating or complying with that request or requirement.

18.3 **Enforcement costs**

The Company shall, within three Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

SECTION 7
GUARANTEE

19. GUARANTEE AND INDEMNITY

19.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

(a) guarantees to each Finance Party punctual performance by each Borrower of that Borrower's obligations under the Finance Documents;

(b) undertakes with each Finance Party that whenever a Borrower does not pay any amount when due under or in connection with any Finance Document, it shall immediately on demand pay that amount as if it was the principal obligor; and

(c) indemnifies each Finance Party immediately on demand against any cost, loss or liability suffered by that Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that Finance Party would otherwise have been entitled to recover.

19.2 Continuing Guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by each Borrower under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

19.3 Reinstatement

If any payment by any Borrower or any discharge given by a Finance Party (whether in respect of the obligations of any Borrower or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

(a) the liability of each Borrower shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

(b) each Finance Party shall be entitled to recover the value or amount of that security or payment from each Borrower, as if the payment, discharge, avoidance or reduction had not occurred.

19.4 Waiver of defences

The obligations of each Guarantor under this Clause 19 will not be affected by an act, omission, matter or thing which, but for this Clause 19, would reduce, release or prejudice any of its obligations under this Clause 19 (without limitation and whether or not known to it or any Finance Party) including:

(a) any time, waiver or consent granted to, or composition with, any Borrower or other person;

(b) the release of any Borrower or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Borrower or any other person;

(e) any amendment (however fundamental) or replacement of a Finance Document or any other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or

(g) any insolvency or similar proceedings.

19.5 **Immediate recourse**

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from a Guarantor under this Clause 19.5. This waiver applies irrespective of any law or regulation or any provision of a Finance Document to the contrary.

Each Guarantor also waives any right to be sued jointly with other Guarantors and to share liability resulting from any claim against it.

19.6 **Appropriations**

Until all amounts which may be or become payable by a Borrower under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

(a) refrain from applying or enforcing any other monies, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any monies received from a Guarantor or on account of such Guarantor's liability under this Clause 19.6,

provided that the operation of this Clause 19.6 shall not be deemed to create any Security.

19.7 **Deferral of Guarantors' rights**

Until all amounts which may be or become payable by a Borrower under or in connection with the Finance Documents have been irrevocably paid in full and unless the Agent (acting on the instructions of the Majority Lenders) otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents:

(a) to be indemnified by a Borrower;

(b) to claim any contribution from any other guarantor of any Borrower's obligations under the Finance Documents; and/or

(c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party.

19.8 **Additional security**

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

SECTION 8
REPRESENTATION, UNDERTAKINGS AND EVENTS OF DEFAULT

20. REPRESENTATIONS

Each Obligor makes the representations and warranties set out in this Clause 20 to each Finance Party.

20.1 Status

(a) It is a corporation, duly organised and validly existing under the laws and regulations of its jurisdiction of incorporation.

(b) It has the power to own its assets and carry on its business as it is being conducted.

20.2 Binding obligations

The obligations expressed to be assumed by it in each Finance Document are, subject to any reservations which are specifically referred to in any Legal Opinion, legal, valid, binding and enforceable obligations.

20.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

(a) any law or regulation applicable to it;

(b) its constitutional documents; or

(c) any agreement or instrument binding upon it or any of its assets.

Assuming that no Lender (or any person with whom a Lender has entered into a sub-participation agreement) is a U.S. Lender, no part of the proceeds of any Loans will be used in a manner that would cause the Loans to be in violation of Regulation U or X of the Board of Governors of the Federal Reserve System of the United States.

20.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

20.5 Validity and admissibility in evidence

All Authorisations required or desirable:

(a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and

(b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect or will be obtained in accordance with the provisions of this Agreement.

20.6 **Governing law and enforcement**

(a) The choice of English law as the governing law of the Finance Documents will be recognised and enforced in its jurisdiction of incorporation subject to any reservations which are specifically referred to in any Legal Opinion.

(b) Any judgement obtained in England in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation, subject to any reservations which are specifically referred to in any Legal Opinion.

20.7 **Deduction of Tax**

Subject to the completion of any procedural formality, it is not required under the laws and regulations of its jurisdiction of incorporation to make any deduction for or on account of Tax from any payment it may make under any Finance Document to any Qualifying Lender.

20.8 **No filing or stamp taxes**

Under the laws and regulations of its jurisdiction of incorporation it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar Tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents.

20.9 **No default**

(a) No Default is continuing or might reasonably be expected to result from the making of any Utilisation.

(b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or its Subsidiaries') assets are subject which has or is reasonably likely to have a Material Adverse Effect.

20.10 **No misleading information**

(a) Any written factual information provided by the Company for the purposes of the Information Memorandum was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.

(b) Save as disclosed in writing to the Agent after the date this Agreement (such disclosed information only having come to the attention of the Company after such date), so far as the Company is aware, after reasonable enquiry, nothing has occurred or been omitted from the Information Memorandum and no information has been given or withheld that results in the information contained in the Information Memorandum being untrue or misleading in any material respect.

(c) All material written information (other than the Information Memorandum) supplied by any member of the Group in relation to the Finance Documents is true, complete and accurate in all material respects as at the date it was given or stated to be given and is not misleading in any material respect.

20.11 **Financial statements**

(a) Its Original Financial Statements were prepared in accordance with GAAP consistently applied and are complete and accurate in all material respects.

(b) Its Original Financial Statements fairly represent in all material respects its financial condition and operations during the relevant financial year.

(c) For the purposes of any repetition of the representation contained in paragraphs (a) and (b) of this Clause 20.11 (pursuant to Clause 20.21 (*Times on which representations are made*)) the representations will be made in respect of the latest available audited consolidated annual financial statements of each Obligor, instead of the Original Financial Statements.

20.12 **Pari passu ranking**

Its payment obligations under the Finance Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law or regulation applying to companies generally.

20.13 **No proceedings pending or threatened**

Except as disclosed in Schedule 14 (*Proceedings pending or threatened*), no litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which (i) are likely to be adversely determined and which, if so determined, would be reasonably likely to have a Material Adverse Effect or (ii) (where not of a frivolous or vexatious nature or where not dismissed within 30 days of commencement) purport to affect the legality, validity or enforceability of any of the obligations under the Finance Documents, have been started or threatened against any Obligor or any Material Subsidiary.

20.14 **Offer Documents Information**

Except as expressly permitted pursuant to this Agreement, the Offer Documents as delivered to the Agent contain all the material terms of the Offer as at the date of each such Offer Document and the Offer Document reflects the terms of the Announcement in all material respects.

20.15 **No winding-up**

No legal proceedings or other procedures or steps have been taken or, to the Company's knowledge after reasonable enquiry, are being threatened, in relation to the winding-up, dissolution, administration or reorganisation of any Obligor or Material Subsidiary (other than a solvent liquidation or reorganisation of any Material Subsidiary which is not an Obligor).

20.16 **Material Adverse Change**

There has been no material adverse change in the Company's business, condition (financial or otherwise), operations, performance or assets taken as a whole (or the business, consolidated condition (financial or otherwise) operations, performance or the assets generally of the Group taken as a whole) since the date of the Company's Original Financial Statements.

20.17 **Environmental compliance**

Each member of the Group has performed and observed in all material respects all Environmental Law, Environmental Permits and all other material covenants, conditions, restrictions or agreements directly or indirectly concerned with any contamination, pollution or waste or the release or discharge of any toxic or hazardous substance in connection with any real property which is or was at any time owned, leased or occupied by any member of the Group or on which any member of the Group has conducted any activity where failure to do so might reasonably be expected to have a Material Adverse Effect.

20.18 **Environmental Claims**

No Environmental Claim has been commenced or (to the best of its knowledge and belief) is threatened against any member of the Group where that claim would be reasonably likely, if finally determined against that member of the Group, to have a Material Adverse Effect.

20.19 **No Immunity**

In any proceedings taken in its jurisdiction of incorporation in relation to this Agreement, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

20.20 **Private and commercial acts**

Its execution of the Finance Documents constitutes, and its exercise of its rights and performance of its obligations hereunder will constitute, private and commercial acts done and performed for private and commercial purposes.

20.21 **Times on which representations are made**

(a) All the representations and warranties in this Clause 20 are made to each Finance Party on the date of this Agreement except for:

(i) the representations and warranties set out in Clause 20.10 *(No misleading information*) which are deemed to be made by each Obligor on the date that the Information Memorandum was approved by CEMEX Parent (or its relevant Subsidiary) and on the Syndication Date; and

(ii) the representations and warranties set out in Clause 20.14 *(Offer Documents Information)* which are made on the date of this Agreement and are deemed to be made by each Obligor on the Unconditional Date.

(b) The Repeating Representations are deemed to be made by each Obligor to each Finance Party on the Unconditional Date, the date of each Utilisation Request and on the first day of each Interest Period **provided that** in respect of any Acquisition Utilisation made during the Certain Funds Period, only the Certain Funds Representations will be deemed to be repeated by the relevant Obligor on the date such Acquisition Utilisation is made and on the first day of each Interest Period relating thereto up to (and including) the first day of the Interest Period which begins closest to the end of the Certain Funds Period and further **provided that** the representations given in Clause 20.14 (*Offer Documents Information*) shall not be repeated after the end of the Certain Funds Period.

(c) The Repeating Representations and each of the representations and warranties set out in Clause 20.5 (*Validity and admissibility in evidence*), Clause 20.6 (*Governing law and enforcement*), Clause 20.9 (*No default*) and paragraph (c) of Clause 20.10 (*No misleading information*) (in respect only of information given by it) are deemed to be made by each Additional Guarantor to each Finance Party on the day on which it becomes an Additional Guarantor.

(d) Each representation or warranty deemed to be made after the date of this Agreement shall be made by reference to the facts and circumstances existing at the date the representation or warranty is made.

21. INFORMATION UNDERTAKINGS

The undertakings in this Clause 21 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

21.1 Financial statements

The Company shall supply to the Agent:

(a) (subject as below) as soon as the same become available, but in any event within 180 days after the end of each of such Obligor's respective financial years:

(i) the Company's audited consolidated and unconsolidated financial statements for that financial year; and

(ii) each other Obligor's (if any) respective audited consolidated (to the extent available) and unconsolidated financial statements for that financial year; and

(b) as soon as the same become available, but in any event within 90 days after the end of the first half of each of its financial years, its unaudited consolidated financial statements for that period **provided that** no such financial statements shall be provided in respect of any such half-year period during which the Acquisition of BidCo Date occurs.

With regard to the first financial year of the Company ending after the Acquisition of BidCo Date, the date by which the documents set out in (a) above must be supplied shall be extended to the date falling 270 days after the end of such financial year **provided that** if such financial statements have not been supplied by the date falling 180 days after the end of that financial year then the Company shall also supply the Agent with its non-audited consolidated financial statements for that financial year no later than the date falling 180 days after the end of that financial year.

21.2 Compliance Certificate

(a) Save where sub-paragraph (c) applies, the Company shall supply to the Agent, with each set of consolidated financial statements delivered pursuant to paragraphs (a)(i) and (b) of Clause 21.1 (*Financial statements*), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 22 (*Financial Covenants*) as at the date as at which those financial statements were drawn up.

(b) Save where sub-paragraph (c) applies, each Compliance Certificate shall be signed by an Authorised Signatory of the Company and, if required to be delivered with the consolidated financial statements delivered pursuant to paragraph (a)(i) of Clause 21.1 (*Financial statements*), the Company shall provide to the Agent, by no later than 180 days after the end of the relevant financial year, a letter from the Company's auditors or any other internationally recognised accounting firm that is approved by the Facility Agent confirming that the numbers used in the Compliance Certificate calculations have been correctly extracted from the consolidated financial statements of the Company.

(c) Following the Acquisition of Target Date and prior to the delivery of the audited consolidated financial statements of the Company relating to the financial year in

which the Acquisition of BidCo Date occurs, each Compliance Certificate delivered in respect of a Relevant Period shall set out the information required to calculate, and shall include a calculation of, the financial ratios contained in Clause 22 (*Financial Covenants*), in each case in respect of (i) the Group, (ii) BidCo and its Subsidiaries and (iii) (including any necessary adjustments) the Group, together with BidCo and its Subsidiaries, on a *pro forma* basis. Each Compliance Certificate delivered pursuant to this sub-paragraph shall be signed by an Authorised Signatory of the Company.

21.3 **Requirements as to financial statements**

(a) Each set of financial statements delivered by the Company pursuant to Clause 21.1 (*Financial statements*) shall be certified by an Authorised Signatory of the relevant company as fairly representing in all material respects its financial condition as at the date as at which those financial statements were drawn up.

(b) The Company will prepare its audited and consolidated financial statements for Financial Periods ending on or after 31 December 2008 in accordance with the New Spanish GAAP (notwithstanding that the Original Financial Statements were prepared on the basis of other accounting practices) and (without prejudice to the requirements relating to the signature of a Compliance Certificate contained in paragraph (b) of Clause 21.2 (*Compliance Certificate*)):

(i) in respect of the Financial Period ending 31st December 2008, the Company shall, in order to test compliance with the financial covenants in Clause 22 (*Financial Covenants*):

(A) prepare, in relation to the relevant components which are used in the definitions contained in Clause 22.1 (*Financial definitions*) for the relevant Financial Period, a reconciliation of those components with the corresponding components that were prepared in accordance with GAAP and accounting practices applicable for the Financial Period ending 31 December 2007;

(B) request an Affiliate of its auditors to concur with the procedure adopted for the above reconciliation; and

(C) request the auditors to provide a negative assurance on the figures on which the reconciliation has been based being, for these purposes, a confirmation that those figures have been extracted from the consolidated financial statements or from the accounting records of the Company; and

(ii) subject to paragraph (d) below, in respect of any Financial Periods beginning on or after 1 January 2009, the Company shall, in order to test compliance with the financial covenants in Clause 22 (*Financial Covenants*):

(A) prepare, in relation to the relevant components which are used in the definitions contained in Clause 22.1 (*Financial definitions*) for the relevant Financial Period, a reconciliation of those components with the corresponding components that were prepared in accordance with GAAP and accounting practices applicable for the period ending 31 December, 2007; and

(B) have an international finance director of the Company or CEMEX Parent deliver to the Agent a description of necessary changes and reasonably sufficient information to enable the Lenders to determine whether the financial covenants in Clause 22 (*Financial Covenants*) have been complied with,

and the Company will then use the relevant components in paragraphs (b)(i)(A) or (b)(ii)(A) above (as the case may be), for the calculations of EBITDA, Adjusted EBITDA, Net Borrowings and Finance Charges to test the financial covenant ratios contained in Clause 22.2 (*Financial condition*) and the calculation of Subsidiary Financial Indebtedness under Clause 23.15 (*Subsidiary Financial Indebtedness incurrence)* .

(c) The Company shall procure that each set of financial statements delivered pursuant to Clause 21.1 (*Financial statements)* is prepared on the basis set out in paragraph (b) above unless, in relation to any set of financial statements, it notifies the Facility Agent that there has been a change in GAAP, or the accounting practices or reference periods and, unless amendments are agreed in accordance with paragraph (d) of this Clause 21.3, its auditors or any other internationally recognised accounting firm that is approved by the Agent (or, if appropriate, the auditors of the relevant Obligor or any other internationally recognised accounting firm in respect of the Obligor that is approved by the Agent) or, in the case of any financial statements referring to a period after 31 December, 2008, an international Finance Director of the Company or CEMEX Parent (or, if appropriate, an international finance director, vice president or treasurer of the relevant Obligor or CEMEX Parent) deliver to the Agent:

(i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which that Obligor's Original Financial Statements were prepared; and

(ii) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 22 *(Financial covenants*) has been complied with and make an accurate comparison between the financial position indicated in those financial statements and that Obligor's Original Financial Statements.

(d) If the Company adopts International Accounting Standards or, unless the procedure in (c) above is utilised, there are changes to GAAP, or the accounting practices or reference periods, or, in respect of any Financial Periods beginning on or after 1 January 2009, the Company and the Agent shall, at the Company's request, negotiate in good faith with a view to agreeing such amendments to the financial covenants in Clause 22 (*Financial Covenants*) and the ratios used to calculate the Margin and, in each case, the definitions used therein as may be necessary to ensure that the criteria for evaluating the Group's financial condition grant to the Lenders protection equivalent to that which would have been enjoyed by them had the Company not

adopted International Accounting Standards or had there not been a change in GAAP, or the accounting practices or reference periods (subject to compliance with paragraph (b) above). Any amendments agreed will take effect on the date agreed between the Agent and the Company subject to the consent of the Majority Lenders. If no such agreement is reached within 90 days of the Company's request, the Company will remain subject to the obligation to deliver the information specified in paragraph (b) of this Clause 21.3 and the financial covenants in Clause 22 (*Financial Covenants*) and the ratios used to calculate the Margin shall be based on the information delivered.

21.4 **Information: miscellaneous**

The Company shall supply to the Agent:

(a) all documents dispatched by the Company to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;

(b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, or which, to the Company's knowledge after reasonable enquiry, are being threatened or are pending and are likely to be adversely determined against any member of the Group which, in the reasonable opinion of the Company, are not spurious or vexatious, and which might, if adversely determined, have a Material Adverse Effect; and

(c) promptly, such further information regarding the financial condition, assets and business of any Obligor or member of the Group as the Agent (or any Lender through the Agent) may reasonably request other than any information the disclosure of which would result in a breach of any applicable law or regulation or confidentiality agreement entered into in good faith by any member of the Group **provided that** the Company shall use reasonable efforts to be released from any such confidentiality agreement.

21.5 **Notification of default**

(a) Each Obligor shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).

(b) Promptly upon a request by the Agent, the Company shall supply to the Agent a certificate signed by an Authorised Signatory on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

21.6 **"Know your client" checks**

(a) Each Obligor shall promptly upon the request of the Agent or any Lender and each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective New Lender) in order for the Agent, such Lender or any prospective New Lender to carry out and be satisfied with the results of all necessary " **know your**

client" or other checks in relation to the identity of any person that it is required by law to carry out in relation to the transactions contemplated in the Finance Documents. For the avoidance of doubt, a Lender will have no obligation towards the Agent to evidence that it has complied with any "**know your client**" or similar checks in relation to the Obligors.

(b) The Company shall, by not less than five Business Days' written notice to the Agent, notify the Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Obligor pursuant to Clause 26 (*Changes to the Obligors*).

(c) Following the giving of any notice pursuant to paragraph (b) above, the Company shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective New Lender) in order for the Agent, such Lender or any prospective New Lender to carry out and be satisfied with the results of all necessary " **know your client**" or other checks in relation to the identity of any person that it is required by law to carry out in relation to the accession of such Additional Obligor to this Agreement.

21.7 **Notarisations**

Each Obligor shall notify the Agent of any Notarisations referred to in paragraph (a)(iv) of Clause 23.5 (*Notarisation*) promptly upon such Notarisations taking place.

22. FINANCIAL COVENANTS

22.1 **Financial definitions**

In this Clause 22:

"**Adjusted EBITDA**" means, for any Relevant Period, the sum of (a) EBITDA and (b) with respect to any business acquired during such period, the sum of (i) the operating income and (ii) depreciation and amortization expense for such business, as determined in accordance with GAAP for such Relevant Period (the "**Acquired Business Amount**"), **provided that** the Company need only make the adjustments contemplated by "(b)" above if the operating income and depreciation and amortization expense of the acquired business in the 12 Months prior to its acquisition amount to US$10,000,000 or more.

"**CEMEX Capital Contributions**" means (i) contributions in cash or Contributions in Kind to the capital of the Company or any Subsidiary of the Company or (ii) amounts made available to the Company or any Subsidiary of the Company in a form which satisfies the Spanish law requirements of *préstamos participativos* or which fall within the definition of Subordinated Debt. Any such contributions in cash or Contributions in Kind or amounts made available as *préstamos participativos* or Subordinated Debt are to be made by CEMEX Parent or any of its Subsidiaries which are not at the time of such contribution or the making available of such amounts a wholly-owned Subsidiary of the Company or a Subsidiary of the Company.

"**Contributions in Kind**" means a contribution that constitutes delivery of shares of any directly or indirectly owned Subsidiary of CEMEX Parent which at the time immediately prior to the contribution (i) is not a wholly-owned Subsidiary of the Company or (ii) is not a Subsidiary of the Company, provided that:

(a) in each case in relation to such Subsidiary:

(i) substantially all of its assets are in the form of cash or cash equivalents;

(ii) it has no Financial Indebtedness in place; and

(iii) after the making of any such contribution in kind, the Company has the ability to control directly or indirectly the affairs of such Subsidiary; and

(b) such Contribution in Kind shall be limited to the amount of any cash or cash equivalents transferred directly or indirectly as part of that contribution.

"**EBITDA**" means, for the Relevant Period immediately preceding the date on which it is to be calculated, operating profit plus annual depreciation for fixed assets plus annual amortisation of intangible assets plus annual amortisation of start-up costs of the Group plus dividends received from non-consolidated companies and from companies consolidated by the equity method plus an amount equal to the amount of CEMEX Capital Contributions made during the period immediately preceding the date on which it is to be calculated (up to an amount equal to the amount of Royalty Expenses made in such period) plus the income recorded during such period for the use of CO_2 Emission Rights (to the extent not already included in the calculation of operating profit). Such calculation shall be made in accordance with GAAP.

"**Finance Charges**" means for any Relevant Period, the sum (without duplication) of (a) all interest expense in respect of Financial Indebtedness (including imputed interest on Capital Leases) for such period plus (b) all debt discount and expense (including, without limitation, expenses relating to the issuance of instruments representing Financial Indebtedness) amortized during such period plus (c) amortization of discounts on sales of receivables during such period plus (d) all factoring charges for such period plus (e) all guarantee charges for such period, all determined on a consolidated basis in respect of the Group and in accordance with GAAP.

"**Guarantees**" means any guarantee or indemnity of Financial Indebtedness of another person (in the case of any indemnity for any specified amount or otherwise in the amount specified in or for which provision has been made in the accounts of the indemnifier) in any form made other than in the ordinary course of business of the guarantor.

"**Intellectual Property Rights**" means all copyrights (including rights in computer software), trade marks, service marks, business names, patents, rights in inventions, registered designs, design rights, database rights and similar rights, rights in trade secrets or other confidential information and any other intellectual property rights and any interests (including by way of licence) in any of the foregoing (in each case whether registered or not and including all applications for the same) which may subsist in any given jurisdiction.

"**Net Borrowings**" means, at any time, the remainder of (a) Total Borrowings of the Group at such time less (b) the aggregate amount of the following items held by the Company and its Subsidiaries at such time: cash on hand, marketable securities, investments in money market funds, banker's acceptances, short-term deposits and other liquid investments.

"**Relevant Period**" means each period of twelve Months ending on the last day of each half of the Company's financial year.

"**Rolling Basis**" means the calculation of a ratio or an amount made at the end of a financial half year in respect of that financial half year and the immediately preceding financial half year.

"**Royalty Expenses**" means expenses incurred by the Company or any of its Subsidiaries to CEMEX Parent or Subsidiary of CEMEX Parent which is not also a member of the Group as (a) consideration for the granting to the Company or any Subsidiary of a licence to use, exploit and enjoy Intellectual Property Rights and any other intangible assets such as, but not limited to, know-how, formulae, process technology and other forms of intellectual and industrial property, whether or not registered, held by CEMEX Parent or any of its Subsidiaries not being a Subsidiary of the Company; or (b) fees, commissions or other amounts accrued in respect of any management contract, services contract, overhead expenses allocation arrangement or any other similar transaction; **provided that** in paragraphs (a) and (b) such amounts shall have been taken into consideration in the calculation of operating profit under Spanish GAAP.

"**Subordinated Debt**" means debt granted on terms that are fair and reasonable and no less favourable than would be obtained in a comparable arms' length transaction by CEMEX Parent or any Subsidiary of CEMEX Parent which is not also a member of the Group to the Company or any of its Subsidiaries on terms such that no payments of principal may be made thereunder (including but not limited to following any winding up, *concurso de acreedores* or other like event of the Company) unless either:

(i) the Agent has confirmed in writing that all amounts outstanding hereunder have been paid in full; or

(ii) the ratio of Net Borrowings to Adjusted EBITDA (calculated in accordance with Clause 22.3 (*Financial testing*)) prior to such repayment is equal to or lower than 2.7:1 and will remain equal to or lower than 2.7:1 after such repayment and no Event of Default under this Agreement has occurred and is continuing or will occur as a result of the repayment of such debt.

"**Total Borrowings**" means without duplication, in respect of any person all Guarantees granted by such person plus all such person's Financial Indebtedness, but excluding (i) any Guarantee or Financial Indebtedness which, notwithstanding falling within the definition of Guarantee or Financial Indebtedness, is not required to be recorded as a liability by that person on its balance sheet (whether consolidated or otherwise) in accordance with generally accepted accounting principles applicable to that person which are in effect as at the time that such Guarantee or Financial Indebtedness is entered into, issued or incurred, (ii) any Subordinated Debt and (iii) any amounts which are made available in a form which satisfies the Spanish law requirements of *préstamos participativos*.

In respect of any period following the Acquisition of Target Date but prior to the Acquisition of BidCo Date, references in the above definitions to a "Subsidiary" of the Company and to the "Group" shall be deemed to include BidCo and its Subsidiaries, as if the Acquisition of BidCo Date has occurred.

22.2 **Financial condition**

The Company shall ensure that in respect of any Relevant Period:

(a) ending on or after 30 June 2008, the ratio of Net Borrowings to Adjusted EBITDA calculated on a Rolling Basis shall not exceed A:1 as at that date, where A has the value set out in the table below opposite the date on which that Relevant Period ends;

Date on which Relevant Period ends	Ratio
31 December 2008	4.50
30 June 2009	4.50
31 December 2009	4.50
30 June 2010	4.25
31 December 2010	3.75
30 June 2011	3.75

(b) the ratio of EBITDA to Finance Charges calculated on a Rolling Basis shall be greater than or equal to 3.0:1.

22.3 **Financial testing**

The financial covenants set out in Clause 22.2 (*Financial condition*) shall be tested semi-annually by reference to the Company's consolidated financial statements delivered pursuant to Clause 21.1 (*Financial statements*) and/or each Compliance Certificate delivered pursuant to Clause 21.2 (*Compliance Certificate*).

22.4 **Accounting terms**

All accounting expressions which are not otherwise defined herein shall have the meaning ascribed thereto in GAAP.

22.5 **Correction of FX distortion**

(a) As a result of the market volatility and the depreciation of the euro against the US Dollar, the Company will, for each Relevant Period ending on or after 31 December 2008 (subject to the proviso below), recalculate any portion of the EBITDA and, if applicable, the Acquired Business Amount, for a particular Relevant Period which is (in each case) denominated in US Dollars, by converting each Month's EBITDA amount and, if applicable, Acquired Business Amount, denominated in US Dollars into euro by applying the Ending Exchange Rate applicable to that Relevant Period for the conversion of US Dollars into euro, **provided that** the Majority Lenders shall have the option, in respect of any Relevant Period ending after 31 December 2009 (but not any Relevant Period ending before that date) to decide that the currency volatility recalculations set out in this paragraph (a) are no longer to apply and, if they so decide, the Agent (acting on the instructions of the Majority Lenders) shall notify the Company in writing and from the date of such notice, the currency volatility recalculations set out in this Clause 22.5 shall no longer apply.

(b) The "**Ending Exchange Rate**" means, in respect of a Relevant Period, the exchange rate at the end of that Relevant Period used to calculate any portion of Financial Indebtedness from US Dollars into euro for the purposes of the calculations of the financial covenants contained in Clause 22 (*Financial Covenants*).

(c) For the avoidance of doubt, that portion of each month's EBITDA and, if applicable, Acquired Business Amount (of the twelve month period) in euro which has been converted from US Dollars shall be divided by the exchange rate (the exchange rate from US Dollars to euro) which has been used by the Company in determining that month's EBITDA and, if applicable, Acquired Business Amount, and then multiplied by the Ending Exchange Rate. The resulting recalculated EBITDA and, if applicable, Acquired Business Amount, will be the sum of each month's recalculated EBITDA and, if applicable, Acquired Business Amount, during the Relevant Period and will be used for the purposes of the testing of the financial covenants in this Clause 22.

22.6 **Conversion or Replacement of *Préstamos Participativos***

The Company or any of its Subsidiaries may convert or replace *préstamos participativos* into or with (as the case may be) Subordinated Debt or shares issued by the Company or any of its Subsidiaries.

23. GENERAL UNDERTAKINGS

The undertakings in this Clause 23 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

23.1 **Authorisations**

Each Obligor shall promptly:

(a) obtain, comply with and do all that is necessary to maintain in full force and effect; and

(b) supply certified copies to the Agent of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document.

23.2 **Preservation of corporate existence**

Subject to Clause 23.8 (*Merger*), each Obligor shall (and the Company shall ensure that each of its Material Subsidiaries shall), preserve and maintain its corporate existence and rights.

23.3 **Preservation of properties**

Each Obligor shall (and the Company shall ensure that each of its Material Subsidiaries shall) maintain and preserve all of its properties that are used in the conduct of its business in good working order and condition (ordinary wear and tear excepted).

23.4 **Compliance with laws and regulations**

(a) Each Obligor shall (and shall procure that each of its Subsidiaries and (following the Acquisition of Target Date but prior to the Acquisition of BidCo Date) BidCo and its Subsidiaries shall) comply in all respects with all laws and regulations to which it may be subject, if failure to so comply would be likely to have a Material Adverse Effect.

(b) The Company shall (and shall procure that each of its Subsidiaries and (following the Acquisition of Target Date but prior to the Acquisition of BidCo Date) BidCo and its

Subsidiaries shall) ensure that the levels of contribution to pension schemes are and continue to be sufficient to comply with all its and their material obligations under such schemes and generally under applicable laws (including ERISA) and regulations, except where failure to make such contributions would not reasonably be expected to have a Material Adverse Effect.

23.5 **Notarisation**

(a) Subject to paragraph (b) of this Clause 23.5, the Company shall not (and shall procure that none of its Subsidiaries or (following the Acquisition of Target Date but prior to the Acquisition of BidCo Date) BidCo and its Subsidiaries shall) permit any of its unsecured indebtedness to be notarised as a Spanish Public Document (any such notarisation, a " **Notarisation**"), other than the following permitted Notarisations ("**Permitted Notarisations**"):

(i) any Permitted Notarisations listed in Schedule 11 (*Existing Notarisations*) and any amendments or modifications thereof, provided that any such amendment or modification shall not result in the increase of the principal amount of the relevant indebtedness nor the extension of the maturity thereof nor, for the avoidance of doubt, relate to any refinancing of the relevant indebtedness;

(ii) Notarisations which are required by applicable law or regulation or which arise by operation of law other than pursuant to any issue of debt securities in accordance with Article 285 of the Spanish Corporations Law (*Ley de Sociedades Anónimas*);

(iii) Notarisations with the prior written consent of the Majority Lenders;

(iv) any Notarisations securing indebtedness the principal amount of which (when aggregated with the principal amount of any other Notarisations other than any Permitted Notarisations under paragraphs (i) or (iii) above) do not exceed US$100,000,000 (or its equivalent in another currency or currencies); and

(v) any Notarisations relating to indebtedness in respect of any sale and purchase agreement customarily registered in a public register in Spain and payment of which indebtedness is made within seven days of the date of such agreement.

(b) Paragraph (a) of this Clause 23.5 shall not apply if the Company, concurrently with any such Notarisation (not being a Permitted Notarisation) referred to in paragraph (a) of this Clause 23.5 and at its own cost and expense, causes this Agreement to be the subject of a Notarisation.

23.6 **Negative pledge**

The Company shall not and shall not permit any of its Subsidiaries or (following the Acquisition of Target Date but prior to the Acquisition of BidCo Date) BidCo and its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Security on or with respect to any of its property or assets or those of any Subsidiary, whether now owned or held or hereafter acquired, other than the following Security (" **Permitted Security**"):

(a) Security for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made;

(b) statutory liens of landlords and liens of carriers, warehousemen, mechanics and materialment incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made;

(c) liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security and any liens created over the assets of BidCo by operation of Australian law pursuant to the Offer process;

(d) any attachment or judgment lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(e) Security existing on the date of this Agreement as described in Schedule 10 (*Existing Security*) provided that the principal amount secured thereby is not increased without the consent of the Agent (acting on the instructions of the Majority Lenders);

(f) any Security on property acquired by the Company or any of its Subsidiaries after the date of this Agreement that was existing on the date of acquisition of such property **provided that** such Security was not incurred in anticipation of such acquisition; and any Security created to secure all or any part of the payment of the purchase price, or to secure indebtedness incurred or assumed to pay all or any part of the payment of the purchase price, of property acquired by the Company or any of its Subsidiaries after the date of this Agreement, **provided, further, that** (i) any such Security permitted pursuant to this paragraph (f) shall be confined solely to the item or items of property so acquired (including, in the case of any acquisition of a corporation through the acquisition of more than 50 per cent. of the voting stock of such corporation, the stock and assets of any acquired Subsidiary or acquiring Subsidiary by which the acquired Subsidiary shall be directly or indirectly controlled) and, if required by the terms of the instrument originally creating such Security, other property which is an improvement to, or is acquired for specific use with, such acquired property; (ii) if applicable, any such Security shall be created within nine Months after, in the case of property, its acquisition, or, in the case of improvements, their Completion; and (iii) no such Security shall be made in respect of any indebtedness in relation to repayment of which recourse may be had to any member of the Group (in the form of Security) other than in relation to the item or items as referred to in (i) above;

(g) any Security renewing, extending or refinancing the indebtedness to which any Security permitted by paragraph (f) above relates; provided that the principal amount of indebtedness secured by such Security immediately prior thereto is not increased and such Security is not extended to other property;

(h) any Security created on shares representing no more than a Stake in the capital stock of any of the Company's Subsidiaries solely as a result of the deposit or transfer of such shares into a trust or a special purpose corporation (including any entity with legal personality) of which such shares constitute the sole assets **provided that** such Security may not secure Financial Indebtedness of the Company or any Subsidiary unless otherwise permitted under this Clause 23.6 and that the economic and voting rights in such capital stock is maintained by the Company in its Subsidiaries;

(i) any Security permitted by the Agent, acting on the instructions of the Majority Lenders;

(j) any Security created pursuant to or in respect of a Permitted Securitisation; or

(k) in addition to the Security permitted by the foregoing paragraphs (a) to (j), Security securing indebtedness of the Company and its Subsidiaries (taken as a whole) not in excess of an amount equal to 5 per cent. of the Adjusted Consolidated Net Tangible Assets of the Group, as determined in accordance with GAAP,

unless, in each case, the Obligors have made or caused to be made effective provision whereby the obligations hereunder are secured equally and rateably with, or prior to, the indebtedness secured by such Security (other than Permitted Security) for so long as such indebtedness is so secured.

For the purposes of paragraph (k) of this Clause 23.6, "**Adjusted Consolidated Net Tangible Assets**" means, with respect to any person, the total assets of such person and its Subsidiaries (less applicable depreciation, amortisation and other valuation reserves), including any write-ups or restatements required under GAAP (other than with respect to items referred to in (ii) below), minus (i) all current liabilities of such person and its Subsidiaries (excluding the current portion of long-term debt) and (ii) all goodwill, trade names, trademarks, licences, concessions, patents, un-amortised debt discount and expense and other intangibles, all as determined on a consolidated basis in accordance with GAAP and by reference to the latest consolidated financial statements of the Company delivered pursuant to Clause 21.1 (*Financial statements*).

23.7 **Disposal Proceeds**

(a) The Company shall use any amounts of Disposal Proceeds and Permitted Securitisation Proceeds (together, " **Relevant Disposal Proceeds**") to:

(i) repay or prepay the Facilities in accordance with Clause 7 (*Repayment*) or Clause 9.5 (*Voluntary prepayment of Loans*) respectively or otherwise pursuant to the terms of this Agreement;

(ii) repay or prepay any Financial Indebtedness of the CEMEX Group (including any scheduled amortisation payments) where the tenor of such Financial

Indebtedness is less than one year from the date of such repayment or prepayment, save unless a member of the CEMEX Group is required to prepay or repay any indebtedness with such proceeds (in which case they shall be so used and this tenor requirement shall not apply);

(iii) if, having used its reasonable endeavours to procure an amendment to any capital markets indebtedness of the Group outstanding on the Third Amendment Date to reflect the terms of the financial covenants contained in Clause 22 (*Financial covenants*), it has been unable to do so and is therefore required to prepay such indebtedness, make such prepayment; or

(iv) if, during any financial year of the Company in which Relevant Disposal Proceeds are received, the Company determines that it will require funds during that financial year to meet its obligations falling due in the ordinary course of its business (after taking into account any cash available to the Group or to be received by the Group during such period and not required to meet any specific obligations during such period) retain such Relevant Disposal Proceeds and apply them towards such obligations, **provided that**:

(i) the maximum amount of Relevant Disposal Proceeds that may be retained in this way in any financial year of the Company, when aggregated with all Relevant Disposal Proceeds retained in this way in such financial year shall not exceed the lower of (1) US$200 million (or its equivalent in other currencies) and (2) 20 per cent. of the aggregate Relevant Disposal Proceeds which have been received by the Company or any member of the Group in that financial year of the Company; and

(ii) if any Relevant Disposal Proceeds are retained in this way and not in fact used to meet obligations falling due in the ordinary course of its business referred to above in the financial year of the Company in which such Relevant Disposal Proceeds are received, the amount which has not been so applied shall be applied promptly by the Company for one or more of the purposes set out in sub-paragraphs (i) to (iii) (inclusive) above,

and further **provided that** the Company shall notify the Agent of any amounts which it intends to retain from Relevant Disposal Proceed pursuant to this paragraph (iv) promptly after receipt of the same.

(b) In this Clause 23.7:

"**Disposal**" means a sale, lease, licence, transfer, loan or other disposal by a person of any asset or shares in any Subsidiary or other company whose principal purpose or one of whose principal purposes is the ownership of assets which are to be the subject of a Disposal (whether by a voluntary or involuntary single transaction or series of transactions).

"**Disposal Proceeds**" means the cash consideration received after the date of Third Amendment Agreement by any member of Group (including any amount receivable in repayment of intercompany debt) for any Disposal (except in respect of any Excluded Disposal Proceeds) after deducting:

(i) any expenses which are incurred by the disposing party of such assets with respect to that disposing party of such assets with respect to that Disposal owing to persons who are not members of the relevant Group; and

(ii) any Tax incurred and required to be paid by the disposing party in connection with that Disposal (as reasonably determined by the disposal party on the basis of rates existing at the time of the disposal and taking account of any available credit, deduction or allowance).

"**Excluded Disposal Proceeds**" means the proceeds of any Disposal of:

(i) inventory or trade receivables;

(ii) assets which are redundant or no longer required with respect to the business of the disposing entity;

(iii) assets in the ordinary course of trading of the disposing entity;

(iv) assets which are located in Hungary or Austria, or which are owned or operated by members of the Group which are incorporated and/or have their place of business in Hungary or Austria;

(v) assets pursuant to a Permitted Securitisation programme existing as at the date of the Third Amendment Agreement (or any rollover or extension of such a Permitted Securitisation);

(vi) any asset from any member of the Group to another member of the Group on arm's length terms and for fair market or book value;

(vii) assets in exchange for other assets comparable or superior as to value and relating to the business of the Group, or any similar arrangement, including Disposals of assets in exchange for consideration comprising a combination of other assets and cash (but **provided that** the amount of any partial cash consideration so received shall not be Excluded Disposal Proceeds);

(viii) assets leased or licensed to any director, officer or employee of any member of the Group in connection with and as part of the ordinary course of the service or employment arrangements of the Group; and

(ix) marketable securities (being securities (whether equity, debt or other securities) which are listed on a stock exchange or for which a trading market exists (whether on market or over the counter) and which are short term investments held as current assets and excluding shares in Subsidiaries of the Company.

"**Permitted Securitisation Proceeds**" means the cash consideration received by any member of the Group (including any amount received in repayment of intercompany debt) in each case after the date of the Third Amendment Agreement from any Permitted Securitisation (other than a Permitted Securitisation under a programme which exists on the date of the Third Amendment Agreement or any rollover or extension of such a Permitted Securitisation or a Permitted Securitisation between members of the Group) after deducting:

(i) any expenses which are incurred by the relevant member(s) of the Group with respect to that Permitted Securitisation owing to persons who are not members of the Group; and

(ii) any Tax incurred and required to be paid by the relevant member(s) of the Group with respect to that Permitted Securitisation (as reasonably determined by the relevant member(s) of the Group on the basis of rates existing at the time and taking account of any available credit, deduction or allowance).

23.8 **Merger**

(a) Subject to paragraphs (b) and (c) of this Clause 23.8, unless it has obtained the prior written approval of the Majority Lenders, no Obligor shall (and the Company shall ensure that none of its Subsidiaries or (prior to the Acquisition of BidCo Date) BidCo and its Subsidiaries shall) enter into any amalgamation, demerger, merger or other corporate reconstruction (a "**Reconstruction**"), other than (i) a Reconstruction relating only to CEMEX Parent's Subsidiaries *inter se*; (ii) a Reconstruction between the Company and any of its Subsidiaries; or (iii) a solvent reorganisation or liquidation of any of the Subsidiaries of the Company which are not Obligors, **provided that** in any case no Default shall have occurred and be continuing at the time of such transaction or would result therefrom and **provided further that** (a) none of the Security (if any) granted to the Lenders nor the guarantees granted by the Guarantors hereunder is or are adversely affected as a result, and (b) the resulting entity, if it is not an Obligor, assumes the obligations of the Obligor the subject of the merger.

(b) Subject to paragraph (c) of this Clause 23.8, the Obligors may merge with any other person if the book value of such person's assets prior to the merger does not exceed 3 per cent. of the book value of the Group's assets taken as a whole considered on a consolidated basis.

(c) No merger otherwise permitted by paragraphs (a) and (b) of this Clause 23.8 shall be so permitted if as a result the then existing Ratings of the Company would be downgraded whether at the time of, or within 3 Months of, the date of announcement of a Reconstruction, directly as a result of any merger involving the Company. Furthermore the resulting entity of any merger otherwise permitted by paragraphs (a) and (b) of this Clause 23.8, if it is not an Obligor, shall assume the obligations of any Obligor which is the subject of the merger.

23.9 **Change of business**

(a) None of the Obligors shall make a substantial change to the general nature of its business from that carried on at the date of this Agreement.

(b) None of the Obligors shall cease to carry on its business (save (except in the case of the Company which shall in no event cease or substantially change its business) unless another Obligor continues to operate any such business).

(c) The Company shall procure that no substantial change is made to the general nature of the business of any of its Material Subsidiaries from that carried on at the date of this Agreement and that there shall be no cessation of such business (**provided that** (if BidCo is a Material Subsidiary) should BidCo cease to own any assets in accordance with the terms of this Agreement, such cessation shall not in itself constitute a breach of this paragraph (c) of Clause 23.9).

23.10 **Insurance**

The Obligors shall (and the Company shall ensure that each of its Material Subsidiaries (other than the Obligors) shall) maintain insurances on and in relation to its business and assets with reputable underwriters or insurance companies against those risks and to the extent as is usual for companies carrying on the same or substantially similar business where such insurance is available on reasonable commercial terms.

23.11 **Environmental Compliance**

The Company shall (and the Company shall ensure that each of its Subsidiaries and (following the Acquisition of Target Date but prior to the Acquisition of BidCo Date) BidCo and its Subsidiaries shall) comply in all material respects with all Environmental Law and obtain and maintain any Environmental Permits and take all reasonable steps in anticipation of known or expected future changes to or obligations under the same, in each case where failure to do so might reasonably be expected to have a Material Adverse Effect.

23.12 **Environmental Claims**

The Company shall inform the Agent in writing as soon as reasonably practicable upon becoming aware of the same:

(a) if any Environmental Claim has been commenced or (to the best of the Company's knowledge and belief) is threatened against any member of the Group or (prior to the Acquisition of BidCo Date) BidCo and its Subsidiaries which is likely to be determined adversely to the member of the Group (or, following the Acquisition of Target Date but prior to the Acquisition of BidCo Date, BidCo or its Subsidiary); or

(b) of any facts or circumstances which will or are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group or (prior to the Acquisition of BidCo Date) BidCo and its Subsidiaries,

where the claim would be reasonably likely, if finally determined against that member of the Group (or, following the Acquisition of Target Date but prior to the Acquisition of BidCo Date, BidCo or its Subsidiary), to have a Material Adverse Effect.

23.13 **Transactions with Affiliates**

Each Obligor shall (and the Company shall ensure that its Subsidiaries shall) ensure that any transactions with its respective Affiliates are on terms that are fair and reasonable and no less favourable to such Obligor or such Subsidiary than it would obtain in a comparable arm's-length transaction with a person who is not an Affiliate (unless such transaction relates to the provision of funds for the Offer as between each Obligor, its Subsidiaries and its or their respective Affiliates).

23.14 **Pari passu ranking**

Each Obligor shall ensure that at all times its payment obligations under the Finance Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law or regulation applying to companies generally from time to time.

23.15 **Subsidiary Financial Indebtedness incurrence**

If, at any time, the aggregate outstanding principal amount of Subsidiary Financial Indebtedness exceeds 15 per cent. of the Consolidated Total Assets, then for so long as such remains the case, no Subsidiary of the Company or (following the Acquisition of Target Date but prior to the Acquisition of BidCo Date), BidCo and its Subsidiaries (except Subsidiaries described in paragraph (f) of the definition of " **Subsidiary Financial Indebtedness**" below) may, directly or indirectly, create, incur, assume or otherwise become liable with respect to any other Financial Indebtedness.

"**Subsidiary Financial Indebtedness**" means Financial Indebtedness of a Subsidiary of the Company or following the Acquisition of Target Date but prior to the Acquisition of BidCo Date, BidCo and its Subsidiaries other than:

(a) Financial Indebtedness of a Subsidiary of the Company that is an Excluded Subsidiary Guarantor;

(b) Financial Indebtedness of a Subsidiary of the Company as disclosed in Schedule 13 (*Existing Financial Indebtedness*) including, for the avoidance of doubt, the Existing Target Debt **provided that**:

(i) the principal amount of such Financial Indebtedness shall not be increased above the principal amount thereof outstanding immediately prior to any extension, refunding or refinancing; and

(ii) the aggregate amount of all Financial Indebtedness that has been extended, refunded or refinanced under this paragraph (b) shall not exceed US$250,000,000 (or the equivalent thereof if denominated in another currency),

for the avoidance of doubt, it is understood that:

(X) if any such Financial Indebtedness is successively extended, refinanced or refunded, only the Financial Indebtedness outstanding after giving effect to all such successive extensions, refinancing and refundings shall be counted against the foregoing amount; and

(Y) any Financial Indebtedness incurred in a currency other than US Dollars pursuant to this paragraph (b) shall continue to be permitted under this paragraph (b), notwithstanding any fluctuation in currency values, as long as the outstanding principal amount of such Financial Indebtedness (denominated in its original currency) does not exceed the maximum amount of such Financial Indebtedness (denominated in such currency) permitted to be outstanding on the date such Financial Indebtedness was incurred);

(c) Financial Indebtedness of a Subsidiary of the Company owed to the Company or another Subsidiary of the Company;

(d) Financial Indebtedness of a Subsidiary of the Company that was:

(i) outstanding at the time such Subsidiary became a Subsidiary of the Company; or;

(ii) contractually required to be incurred by such Subsidiary at such time,

provided that such Financial Indebtedness shall not have been incurred in contemplation of such Subsidiary becoming a Subsidiary of the Company and **provided that** there is no recourse to any member of the Group other than such Subsidiary following the date falling 60 days after such Subsidiary became a Subsidiary of the Company;

(e) any Financial Indebtedness extending the maturity of the Financial Indebtedness referred to in paragraph (d) above, or any refunding or refinancing of the same, **provided that** the principal amount of such Financial Indebtedness shall not be increased above the principal amount thereof outstanding immediately prior to such extension, refunding or refinancing;

(f) Financial Indebtedness of a Subsidiary of the Company which:

(i) has been formed for the purpose of, and whose primary activities are, the issuance or other incurrence of debt obligations to Persons other than Affiliates of the Company and the lending or other advance of the net proceeds of such debt obligations (whether directly or indirectly) to the Company or any Guarantor which is a Holding Company (as defined in sub-Clause 26.3 (*Additional Guarantors*)); and

(ii) has no significant assets other than debt obligations, promissory notes and other contract rights in respect of funds advanced to the Company or such Guarantors; and

(g) Financial Indebtedness of a Subsidiary of the Company incurred pursuant to or in connection with any pooling agreements in place within a bank or financial institution, but only to the extent of offsetting credit balances of the Company or its Subsidiaries pursuant to such pooling arrangement.

(h) Financial Indebtedness of BidCo owing to the Company or any of its Subsidiaries in respect of any funds that have been lent to BidCo for the purpose of funding the Offer.

For the purposes of this Clause 23.15 (*Subsidiary Financial Indebtedness incurrence*):

"**Excluded Subsidiary Guarantor**" means any Subsidiary of the Company that becomes a Guarantor (pursuant to Clause 26.3 (*Additional Guarantors*)) if legal opinions and other evidence are delivered to the Agent sufficient to establish to the reasonable satisfaction of the Agent and its legal adviser that the obligations of such Guarantor under this Agreement rank and will continue to rank at least pari passu with all other unsecured and unsubordinated Financial Indebtedness of such Guarantor, including in a bankruptcy or insolvency proceeding.

"**Consolidated Total Assets**" means, at any time, the total assets of the Company and its Subsidiaries, as determined in accordance with Spanish GAAP by reference to the most recent financial statements supplied by the Company pursuant to Clause 21.1 (*Financial Statements*) or any Compliance Certificate provided pursuant to Clause 21.2 (*Compliance Certificate*), **provided that** such financial statements or Compliance Certificate, as the case may be, shall be adjusted to: (i) reflect the acquisition of any Subsidiary; and (ii) (to the extent not already included) include the total assets of BidCo and its Subsidiaries, as determined in accordance with Spanish GAAP.

23.16 **Payment restrictions affecting Subsidiaries**

The Company shall not enter into or suffer to exist, or permit any of its Subsidiaries (or, following the Acquisition of Target Date but prior to the Acquisition of BidCo Date, BidCo and its Subsidiaries) to enter into or suffer to exist, any agreement or arrangement (other than any Finance Document) directly limiting the ability of any of its Subsidiaries to:

(a) declare or pay dividends or other distributions in respect of its or their respective equity interests in a Subsidiary, except any agreement or arrangement entered into by a person prior to such person becoming a Subsidiary, in which case the Company shall use its reasonable endeavours to remove such limitations. If however, such limitations are reasonably likely to affect the ability of the Company to satisfy its payment obligations under this Agreement, the Company shall use its best endeavours to remove such limitations as soon as possible; or

(b) repay or capitalise any intercompany indebtedness owed by any Subsidiary to any Obligor and, for the avoidance of doubt, subordination provisions shall not be considered a limitation for the purpose of this Clause 23.16.

The provisions of paragraphs (a) and (b) above shall not restrict:

(i) any agreements or arrangements that are binding upon any person in connection with a Permitted Securitisation and any agreement or arrangement that limits the ability of

any Subsidiary of the Company that transfers receivables and related assets pursuant to a Permitted Securitisation to distribute or transfer receivables and related assets **provided that**, in each case, all such agreements and arrangements are customarily required by the institutional sponsor or arranger of such Permitted Securitisation in similar types of documents relating to the purchase of receivables and related assets in connection with the financing thereof;

(ii) customary provisions in joint venture agreements relating to dividends or other distributions in respect of such joint venture or the securities, assets and revenues of such joint venture; and

(iii) restrictions on distributions applicable to Subsidiaries of the Company that are the subject of agreements to sell or otherwise dispose of the stock or assets of such Subsidiaries pending such sale or other disposition.

23.17 **Notification of adverse change in Ratings**

The Company shall promptly notify the Agent of any change in its Ratings or Outlook.

23.18 **The Offer**

(a) The Company shall ensure, and shall procure that BidCo shall ensure, that the Announcement and the Offer Document and any other Offer Documents contain all the material terms and conditions of the Offer.

(b) The Company shall not, and shall procure that BidCo shall not, without the prior written consent of Citigroup Global Markets Limited and The Royal Bank of Scotland plc (such consent not to be unreasonably withheld or delayed):

(i) waive, amend, revise, withdraw, agree, declare or accept or treat as satisfied or decide not to enforce, in whole or in part, any condition of the Offer as to the level of acceptances from those entitled to accept the terms of the Offer, where to do so would result in such level being less than 50.01 per cent. of the total possible acceptances available; and

(ii) issue or allow to be issued on its behalf any press release or other publicity which refers to any Facility or any Finance Party unless the publicity is required by any provision of applicable law or any stock exchange, listing authority or comparable regulatory entity. In that case the Company shall notify Citigroup Global Markets Limited and The Royal Bank of Scotland plc as soon as practicable upon becoming aware of the requirement, shall consult with Citigroup Global Markets Limited and The Royal Bank of Scotland plc on the terms of the reference and shall have regard to (but, for the avoidance of doubt, shall not be required to include) any timely comments of Citigroup Global Markets Limited and The Royal Bank of Scotland plc.

(c) The Company shall comply with the Corporations Act and all other applicable laws in all material respects in the context of the Offer.

(d) The Company shall keep Citigroup Global Markets Limited and The Royal Bank of Scotland plc informed as to the status and progress of the Offer and, in particular, will

from time to time and promptly upon reasonable request give to Citigroup Global Markets Limited and The Royal Bank of Scotland plc details of the current level of acceptances of the Offer (to the extent available and permitted by the applicable laws of Australia and relevant regulations).

(e) The Company shall inform Citigroup Global Markets Limited and The Royal Bank of Scotland plc in advance as to:

(i) the terms and conditions of any assurance or undertaking proposed to be given by or on behalf of any member of the Group (or, so far as the Company is aware, the Target or any of its Subsidiaries) to any person for the purpose of obtaining any authorisation necessary or desirable in connection with the Offer; and

(ii) any terms or conditions proposed in connection with any authorisation necessary or desirable in connection with the Offer.

(f) If any member of the Group becomes aware (whether through notice from any Finance Party or otherwise) of a circumstance or event which is or could reasonably be construed to be covered by any condition of the Offer which, if not waived, would entitle BidCo (with the consent of any other party, if needed) to lapse the Offer, the Company shall promptly notify Citigroup Global Markets Limited and The Royal Bank of Scotland plc.

(g) If BidCo becomes entitled to initiate the compulsory acquisition procedures set out in Part 6A.1 of the Corporations Act in relation to the shares in Target to which the Offer relates, the Company shall procure that BidCo:

(i) shall initiate those procedures promptly (and in any event within 30 days after becoming entitled to do so); and

(ii) shall use all reasonable endeavours to acquire 100 per cent. of the shares to which the compulsory acquisition procedures apply within 12 weeks after initiating those procedures.

(h) If BidCo is required by any holder of the Target's shares to acquire that holder's shares pursuant to the compulsory buy-out provisions of the Corporations Act, the Company shall procure that BidCo will promptly comply with the requirements of the Corporations Act in that respect.

23.19 **Consultation regarding further financing**

The Company shall consult (but, for the avoidance or doubt, with no obligation to act on the outcome of such consultation) for a period of at least 5 days with Citigroup Global Markets Limited and The Royal Bank of Scotland plc, should it (or any of its Affiliates) seek to raise financing for the purpose of the Offer other than (i) the Facilities and (ii) the Other Agreed Offer Facilities (in a maximum amount of US$3,800,000,000).

23.20 **NOF**

The Company shall as soon as reasonably practicable after the date of this Agreement and in any event prior to any interest payment hereunder falling due, provide the Agent with a copy of form PE 1 stamped by the Bank of Spain (Banco de España), whereby it assigns a Financial Operation Number ("**NOF**") to the Facilities.

23.21 **Financial Indebtedness**

(a) Except as permitted under paragraph (b) below, the Company shall not (and shall procure that none of its Subsidiaries will) incur any Financial Indebtedness in respect of any new loan facility (whether syndicated or bilateral) or any new issue of debt securities (" **Relevant Financial Indebtedness**") after the date of the Third Amendment Agreement where such Relevant Financial Indebtedness is to be used to finance:

(i) any acquisition (other than acquisitions in the ordinary course of trading);

(ii) payment of any dividends or other distribution or payment to (directly or indirectly) the shareholders of CEMEX Parent (including any payment in connection with any redemption, repurchase, defeasance, retirement or repayment of the share capital of CEMEX Parent);

(iii) Capital Expenditure incurred by CEMEX Parent or its Subsidiaries exceeding an aggregate amount of:

(A) US$40,000,000 (or its equivalent in other currencies) for the financial year ending 31 December 2009;

(B) US$60,000,000 (or its equivalent in other currencies) for the financial year ending 31 December 2010; and

(C) US$60,000,000 (or its equivalent in other currencies) for the financial year ending 31 December 2011,

(and for these purposes "**Capital Expenditure**" means Maintenance Capital Expenditure and Expansion Capital Expenditure taken together (where "**Maintenance Capital Expenditure**" means expenses or investments made for the maintenance or replacement of existing plant and equipment used for the business of CEMEX Parent or its Subsidiaries and " **Expansion Capital Expenditure**" means expenses or investments which is not Maintenance Capital Expenditure and is made for the expansion of any production or distribution facilities of CEMEX Parent or its Subsidiaries)) and **provided that** this Clause 23.21 (*Financial Indebtedness*) shall only apply if:

(i) on the date of any incurrence of Relevant Financial Indebtedness and, for these purposes only, after giving effect thereto on a pro forma basis (as if such Relevant Financial Indebtedness had been incurred on the first day of the Relevant Period for which the ratio of Net Borrowings to Adjusted EBITDA has then been most recently tested pursuant to Clause 22.3 (*Financial testing*)), the ratio of Net Borrowings to Adjusted EBITDA is greater than or equal to 3.5 to 1.0; or

(ii) an Event of Default has occurred and is continuing or would result from the incurrence of such Relevant Financial Indebtedness.

(b) Paragraph (a) above does not apply to:

(i) any Subordinated Debt or other amounts which are made available in a form which satisfies the Spanish law requirements of *préstamos participativos*;

(ii) other Financial Indebtedness subordinated on terms satisfactory to the Majority Lenders which is used to repay or prepay CEMEX Capital Contributions or pay Royalty Expenses; or

(iii) Financial Indebtedness owed to another member of the Group.

24. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 24 is an Event of Default.

24.1 Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless such failure to pay is caused by an administrative error or technical difficulties within the banking system in relation to the transmission of funds and payment is made within three Business Days of its due date.

24.2 Financial Covenants

Any requirement of Clause 22 *(Financial Covenants*) is not satisfied.

24.3 Other obligations

(a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 24.1 (*Non-payment*) and Clause 22 (*Financial covenants*)).

(b) No Event of Default under paragraph (a) of this Clause 24.3 above will occur if the failure to comply is capable of remedy and is remedied within fifteen Business Days of the Agent giving written notice to the Company or the Company becoming aware of the failure to comply, whichever is the earlier.

24.4 Misrepresentation

Any representation or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

24.5 Cross acceleration

(a) Any Financial Indebtedness of any Obligor or member of the Group or (following the Acquisition of Target Date but prior to the Acquisition of BidCo Date) BidCo or its Subsidiaries is not paid when due nor within any originally applicable grace period.

(b) Any Financial Indebtedness of any Obligor or member of the Group or (following the Acquisition of Target Date but prior to the Acquisition of BidCo Date) BidCo or its Subsidiaries is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

(c) No Event of Default will occur under this Clause 24.5 if the aggregate amount of Financial Indebtedness falling within paragraphs (a) and (b) of this Clause 24.5 above is less than US$75,000,000 (or its equivalent in any other currency or currencies).

24.6 **Insolvency**

(a) Any of the Obligors or Material Subsidiaries is unable or admits inability to pay its debts as they fall due or, by reason of actual or anticipated financial difficulties, suspends making payments on any of its debts or commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.

(b) The value of the assets of any of the Obligors or Material Subsidiaries is less than its liabilities (taking into account contingent and prospective liabilities).

(c) A moratorium is declared in respect of any indebtedness of any of the Obligors or Material Subsidiaries.

24.7 **Insolvency proceedings**

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

(a) a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any of the Obligors or Material Subsidiaries, other than a solvent liquidation or reorganisation of any of the Material Subsidiaries which are not Obligors;

(b) a composition, assignment or arrangement with any class of creditor of any of the Obligors or Material Subsidiaries;

(c) the appointment of a liquidator (other than in respect of a solvent liquidation of any of the Material Subsidiaries which are not Obligors), receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any of the Obligors or Material Subsidiaries or any of their assets;

or any analogous procedure or step is taken in any jurisdiction.

This paragraph shall not apply to any winding-up petition (or equivalent procedure in any jurisdiction) which is frivolous or vexatious and is discharged, stayed or dismissed within 60 days of commencement.

24.8 **Expropriation and sequestration**

Any expropriation or sequestration affects any asset or assets of any Obligor or any Material Subsidiary and has a Material Adverse Effect.

24.9 **Creditors' process and enforcement of Security**

(a) Any Security is enforced against any Obligor or any Material Subsidiary.

(b) Any attachment, distress or execution affects any asset or assets of any Obligor or any Material Subsidiary which is reasonably likely to cause a Material Adverse Effect.

(c) No Event of Default under paragraphs (a) or (b) of this Clause 24.9 above will occur if:

(i) the action is being contested in good faith by appropriate proceedings;

(ii) the principal amount of the indebtedness secured by such Security or in respect of which such attachment, distress or execution is carried out represents less than US$75,000,000 (or its equivalent in any other currency or currencies); and

(iii) the enforcement proceedings, attachment, distress or execution is or are discharged within 60 days of commencement.

24.10 **Ownership of Obligors**

Any Obligor (other than the Company) ceases to be a Subsidiary of the Company.

24.11 **Failure to comply with judgment**

Any Obligor or any Material Subsidiary fails to comply with or pay any sum due from it under any judgement or any order made or given by any court of competent jurisdiction, unless payment of any such sum is suspended pending an appeal.

24.12 **Unlawfulness**

It is or becomes unlawful for an Obligor to perform any of its obligations under the Finance Documents where non-performance is reasonably likely to cause a Material Adverse Effect.

24.13 **Repudiation**

An Obligor repudiates a Finance Document or evidences an intention to repudiate a Finance Document.

24.14 **Material adverse change**

Any material adverse change arises in the financial condition of the Group taken as a whole or (following the Acquisition of Target Date but prior to the Acquisition of BidCo Date only) the Group and the Target Group taken as a whole, which the Majority Lenders reasonably determine would result in the failure by any Obligor to perform its payment obligations under any of the Finance Documents.

24.15 **BidCo**

(a) If at any time following the date falling 6 Months after the First Utilisation Date, BidCo is not a wholly-owned Subsidiary of the Company, unless at such time BidCo has acceded to this Agreement as an Additional Guarantor.

(b) If at any time BidCo is not a direct or indirect Subsidiary of CEMEX Parent.

24.16 **Acceleration**

On and at any time after the occurrence of an Event of Default which is continuing the Agent may, while such Event of Default is continuing and shall if so directed by the Majority Lenders, by notice to the Company:

(a) cancel the Total Commitments whereupon they shall immediately be cancelled;

(b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or

declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders.

24.17 **Clean Up Period**

Notwithstanding any other term of this Agreement, if during the Clean-Up Period a matter or circumstance exists in respect of the Target and/or any member of the Target Group which would constitute a breach under the Finance Documents including:

(i) a breach of any representation or warranty made in Clause 20 (*Representations*);

(ii) a breach of any covenant set out in Clause 23 (*General Undertakings*); or

(iii) a Default,

such matter or circumstance will not constitute a breach of such representation or warranty or covenant or a Default until after the end of the Clean-Up Period, **provided that** reasonable steps are being taken to cure such matter or circumstance (following the Company or BidCo becoming aware of the same), unless such matter or circumstance (1) could reasonably be expected to have a Material Adverse Effect or (2) is not capable of cure or if capable of cure, no reasonable steps are being taken to cure and, in each case, the matter or circumstance has been procured by, or approved by, the Company, CEMEX Parent or BidCo.

SECTION 9
CHANGES TO PARTIES

25. CHANGES TO THE LENDERS

25.1 Assignments and transfers by the Lenders

Subject to this Clause 25, a Lender (the "**Existing Lender**") may:

(a) assign any of its rights and benefits in respect of any Utilisation; or

(b) transfer by novation any of its rights, benefits and obligations in respect of any Commitment or any Utilisation,

to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the " **New Lender**"), **provided that** no Lender may transfer or assign any of its rights, benefits or obligations under the Finance Documents to any U.S. Lender or enter into a sub-participation agreement in respect of such rights, benefits or obligations with a U.S. Lender.

25.2 Conditions of assignment or transfer

(a) The Borrower must be notified no later than one Business Day prior to the proposed date of any assignment or transfer pursuant to this Clause 25.1 (*Assignments and transfers by the Lenders*).

(b) An assignment will be effective only on:

(i) receipt by the Agent of written confirmation from the New Lender that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it was an Original Lender; and

(ii) the satisfaction of the Agent with the results of all " **know your client**" or other checks relating to the identity of any person that it is required by law to carry out in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender.

(c) A transfer will be effective only if the procedure set out in Clause 25.5 (*Procedure for transfer*) is complied with.

(d) If:

(i) a Lender assigns or transfers any of its rights, benefits or obligations under the Finance Documents or changes its Facility Office; and

(ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 14 (*Tax gross-up and indemnities*) or Clause 15 (*Increased costs*),

then the New Lender or Lender acting through its new Facility Office is entitled to receive payment under those Clauses only to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

(e) In addition to the other assignment rights provided in this Clause 25, each Lender may assign, as collateral or otherwise, any of its rights under this Agreement (including rights to payments of principal or interest on the Loans) to any trustee for the benefit of the holders of such Lender's securities **provided that** no such assignment shall release the assigning Lender from any of its obligations under this Agreement.

25.3 **Assignment or transfer fee**

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of US$2,000, except no such fee shall be payable in connection with an assignment or transfer to a New Lender upon primary syndication of the Facilities.

25.4 **Limitation of responsibility of Existing Lenders**

(a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

(i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;

(ii) the financial condition of any Obligor;

(iii) the performance and observance by any Obligor of its obligations under the Finance Documents or any other documents; or

(iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law or regulation are excluded.

(b) Each New Lender confirms to the Existing Lender, and the other Finance Parties that it:

(i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and

(ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

(c) Nothing in any Finance Document obliges an Existing Lender to:

(i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause 25; or

(ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

25.5 **Procedure for transfer**

(a) Subject to the conditions set out in Clause 25.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (b) below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate and send a copy to the Company.

(b) On the Transfer Date:

(i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights, and obligations under the Finance Documents each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the "**Discharged Rights and Obligations**");

(ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

(iii) the Agent, the Arranger, the New Lender and the other Lenders, shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Arranger and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and

(iv) the New Lender shall become a Party as a "**Lender**".

25.6 **Procedure for assignment**

(a) Subject to the conditions set out in Clause 25.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.

(b) The Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender upon its completion of all "know your customer" or other checks relating to any person that it is required to carry out in relation to the assignment to such New Lender.

(c) On the Transfer Date:

(i) the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents;

(ii) the Existing Lender will be released from the obligations (the " **Relevant Obligations**") expressed to be the subject of the release in the Assignment Agreement; and

(iii) the New Lender shall become a Party as a "Lender" and will be bound by obligations equivalent to the Relevant Obligations.

(d) Lenders may utilise procedures other than those set out in this Clause 25.6 to assign their rights under the Finance Documents provided that they comply with the conditions set out in Clause 25.2 (*Conditions of assignment or transfer*).

25.7 **Copy of Transfer Certificate to Borrower**

The Agent shall, as soon as reasonably practicable after it has received a Transfer Certificate, send to the Company a copy of that Transfer Certificate.

25.8 **Disclosure of information**

(a) Any Lender may disclose to any of its Affiliates and any other person:

(i) to (or through) whom that Lender assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under the Finance Documents;

(ii) with (or through) whom that Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, the Finance Documents; or

(iii) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation,

any information about any Obligor, the Group and the Finance Documents as that Lender shall consider appropriate **provided that** (in the case of paragraphs (i) and (ii) only) the person to whom the information is to be given has entered into a Confidentiality Undertaking.

(b) Any Lender may also disclose the size and term of the Facilities and the name of each of the Obligors to any investor or a potential investor in a securitisation (or similar transaction of broadly equivalent economic effect) of that Lender's rights or obligations under the Finance Documents **provided that** the person to whom the information is to be given has entered into a Confidentiality Undertaking.

25.9 **Interest**

All interest accrued in the Interest Period in which a transfer is effective shall be paid to the Existing Lender.

25.10 **Security over Lenders' rights**

In addition to the other rights provided to Lenders under this Clause 25, each Lender may without consulting with or obtaining consent from any Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

(a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank and

(b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment of Security shall:

(i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or

(ii) require any payments to be made by an Obligor or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Finance Documents.

26. CHANGES TO THE OBLIGORS

26.1 **Assignment and Transfers by Obligors**

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

26.2 **Additional Borrowers**

(a) Subject to compliance with the provisions of paragraphs (b) and (c) of Clause 21.6 (*"Know your client*" *checks*), the Company may request that any of its wholly owned Subsidiaries which is not a dormant Subsidiary becomes an Additional Borrower. That Subsidiary shall become an Additional Borrower if:

(i) either:

(A) (if at the time the Company is a Guarantor hereunder) the Majority Lenders approve the addition of that Subsidiary; or

(B) (if at the time the Company is not a Guarantor hereunder) the Lenders approve the addition of that Subsidiary:

(ii) the Company and that Subsidiary deliver to the Agent a duly completed and executed Accession Letter;

(iii) the Company confirms that no Default is continuing or would occur as a result of that Subsidiary becoming an Additional Borrower; and

(iv) the Agent has received all of the documents and other evidence listed in Part II of Schedule 2 (*Conditions precedent required to be delivered by an Additional Obligor*) in relation to that Additional Borrower, each in form and substance satisfactory to the Agent.

(b) The Agent shall notify the Company and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part II of Schedule 2 (*Conditions precedent required to be delivered by an Additional Obligor*).

26.3 **Additional Guarantors**

(a) Subject to compliance with the provisions of paragraphs (b) and (c) of Clause 21.6 (*"Know your client"* checks), the Company may request that it or any of its wholly owned Subsidiaries become an Additional Guarantor.

(b) The Company may request that it or any of its Subsidiaries becomes an Additional Guarantor by:

(A) the Company delivering to the Agent a duly-completed and executed Accession Letter; and

(B) the Agent receiving from the Company all of the documents and other evidence referred to in Part II of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Obligor*) in relation to that Additional Guarantor.

(c) The Agent shall notify the Company and the Lenders promptly upon being satisfied that it has received all the documents and other evidence listed in Part II of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Obligor*).

26.4 **Resignation of Guarantor**

A Guarantor (a "**Resigning Guarantor**") will cease to be a Guarantor if:

(a) it makes a sale, lease, transfer or other disposal of all or substantially all (but not a part only) of its assets to another member of the Group which is or becomes a Guarantor in accordance with Clause 26.3 (*Additional Guarantors*); or

(b) it notifies the Agent that it has no assets and provides the Agent with a certificate signed by a director of the Company confirming that it has no assets,

provided that:

(i) such Resigning Guarantor also, if applicable, ceases concurrently to be a guarantor in respect of any other indebtedness of the Group or of any member of the Group;

(ii) such Resigning Guarantor notifies the Agent of any sale, lease, transfer or other disposal in accordance with paragraph (a) of this Clause 26.4; and

(iii) the Company may not resign as a Guarantor without the consent of all Lenders.

26.5 **Resignation of a Borrower**

(a) The Company may request that a Borrower (other than the Company) ceases to be a Borrower by delivering to the Agent a letter of resignation signed by an Authorised Signatory of the Company and the relevant Borrower, which confirms that the requirements of paragraph (b) below are met.

(b) The Agent shall accept such a resignation and notify the Company and the Lenders of its acceptance if:

(i) no Default is continuing or would result from the acceptance of the resignation (and the Company has confirmed this is the case); and

(ii) the Borrower is under no actual or contingent obligations as a Borrower under any Finance Documents,

whereupon that company shall cease to be a Borrower and shall have no further rights or obligations under the Finance Documents.

26.6 **Removal of Guarantor**

(a) At any time following the date (if any) on which a member of the Group has acceded to this Agreement as an Additional Guarantor, in the event that the Company delivers to the Agent a certificate (a "**Guarantor Removal Certificate**") signed by two authorised signatories of the Company confirming that (as at the date of the Guarantor Removal Certificate) a substantial part of the Net Borrowings of the Group:

(i) is guaranteed only by the Company and/or any other guarantors which are not Guarantors (whether, for the avoidance of doubt, as a result of the repayment, redemption, maturity or cancellation of any Financial Indebtedness, or any agreement with any creditor of the Group or as a result of any other reason); and/or

(ii) (A) is subject to provisions in any agreements or documents (including this Agreement) with any creditor of the Group (or any other party) relating to any Financial Indebtedness of the Group, which allow for the removal of all or any of the Guarantors as guarantors pursuant to such agreements or documents (other than the Company, such that the only remaining guarantors of such Financial Indebtedness would in each case be the Company and/or any other guarantors which are not Guarantors), and (B) the conditions (if any) to such removal pursuant to such agreements or documents have been

met by the relevant Guarantor, and (C) any or all of the Guarantors (other than the Company) has or have been removed (or will be so removed at a date which is not later than the date scheduled for removal of the relevant Guarantor pursuant to the relevant Guarantor Removal Certificate) as guarantors of the relevant Financial Indebtedness pursuant to such agreements or other documents,

the obligations of the relevant Guarantor(s) (other than the Company) under the guarantee and indemnity contained in Clause 19 (*Guarantee and Indemnity*) shall terminate and such Guarantor(s) shall be deemed to be discharged in full, and shall cease to be Guarantor(s), effective as at the date indicated in the Guarantor Removal Certificate, which date shall not be earlier than 10 days of receipt by the Agent of the Guarantor Removal Certificate, provided always that any such termination and discharge pursuant to this Clause 26.6 would not result in a downgrading of the then current Rating of the Company assigned by S&P or Fitch.

(b) For the purposes of this Clause 26.6, a "**substantial part**" shall mean an aggregate amount equal to or greater than 85 per cent. of the aggregate value of the Net Borrowings of the Group.

The "**Net Borrowings**" of the Group referred to in this Clause shall be determined by reference to the most recent Compliance Certificate delivered to the Agent pursuant to Clause 21.2 (*Compliance Certificate*) at the date of the relevant Guarantor Removal Certificate.

(c) For the avoidance of doubt, the Guarantor Removal Certificate shall also:

(i) specify the percentage of the Net Borrowings of the Group which is guaranteed only by the Company and/or any other guarantors which are not Guarantors;

(ii) specify the percentage of the Net Borrowings of the Group which is subject to provisions in agreements or documents which allow for the removal of the Guarantors (other than the Company); and

(iii) certify that the conditions (if any) to the removal of such Guarantors in such agreements or documents have been met by the relevant member of the Group as at the date of the Guarantor Removal Certificate;

(iv) certify that the relevant Guarantor(s) has or have been removed (or will be so removed at a date which is not later than the date scheduled for removal of the relevant Guarantor pursuant to the relevant Guarantor Removal Certificate) as Guarantor(s) of the relevant Financial Indebtedness; and

(v) confirm that neither S&P nor Fitch will downgrade the then current Rating assigned to the Company as a result of the removal of the relevant Guarantor(s) as Guarantor(s) under this Agreement.

(d) Following delivery of the Guarantor Removal Certificate to the Agent, the Company shall provide notice of the removal, and termination of the obligations of the Guarantors (other than the Company) to the Finance Parties, in accordance with Clause 32 (*Notices*) of the Agreement.

26.7 **Repetition of Representations**

Delivery of an Accession Letter constitutes confirmation by the relevant Affiliate that the Repeating Representations are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

SECTION 10
THE FINANCE PARTIES

27. ROLE OF THE AGENT AND THE ARRANGER

27.1 Appointment of the Agent

(a) Each of the Arranger and the Lenders appoints the Agent to act as its agent under and in connection with the Finance Documents.

(b) Each of the Arranger and the Lenders, authorises the Agent to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

27.2 Duties of the Agent

(a) The Agent shall promptly forward to a Party the original or a copy of any document (including, but not limited to, the Company's annual financial statements) which is delivered to the Agent for that Party by any other Party.

(b) The Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(c) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.

(d) If the Agent is aware of the non-payment of any principal, interest or fee payable to a Finance Party (other than the Agent or the Arranger) under this Agreement it shall promptly notify the other Finance Parties.

(e) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

27.3 Role of the Arranger

Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

27.4 No fiduciary duties

(a) Nothing in this Agreement constitutes the Agent and/or the Arranger, as a trustee or fiduciary of any other person.

(b) Neither the Agent nor the Arranger shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

27.5 Business with the Group

The Agent and the Arranger may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

27.6 **Rights and discretions**

(a) The Agent may rely on:

(i) any representation, notice or document (including, for the avoidance of doubt, any representation, notice or document communicating the consent of the Majority Lenders pursuant to Clause 36.1 (*Required consents*)) believed by it to be genuine, correct and appropriately authorised; and

(ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

(b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:

(i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 24.1 (*Non-payment*));

(ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and

(iii) any notice or request made by the Company (other than a Utilisation Request) is made on behalf of and with the consent and knowledge of all the Obligors.

(c) The Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.

(d) The Agent may act in relation to the Finance Documents through its personnel and agents.

(e) The Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.

(f) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Arranger, is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law and regulation or a breach of a fiduciary duty or duty of confidentiality.

27.7 **Majority Lenders' instructions**

(a) Unless a contrary indication appears in a Finance Document, the Agent shall (i) exercise any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by the Majority Lenders (or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders.

(b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders will be binding on all the Finance Parties.

(c) The Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders) until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.

(d) In the absence of instructions from the Majority Lenders, (or, if appropriate, the Lenders) the Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.

(e) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.

27.8 **Responsibility for documentation**

Neither the Agent nor the Arranger:

(a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Agent, the Arranger, an Obligor or any other person given in or in connection with any Finance Document or the Information Memorandum; or

(b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document.

27.9 **Exclusion of liability**

(a) Without limiting paragraph (b) below, neither the Agent nor the Arranger will be liable for any action taken by it under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct or wilful breach of any Finance Document.

(b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Agent may rely on this Clause 27 subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.

(c) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.

(d) Nothing in this Agreement shall oblige the Agent or the Arranger to carry out any checks pursuant to any laws or regulations relating to money laundering in relation to any person on behalf of any Lender and each Lender confirms to the Agent and the Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Arranger.

27.10 **Lenders' indemnity to the Agent**

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by an Obligor pursuant to a Finance Document).

27.11 **Resignation of the Agent**

(a) The Agent may resign and appoint one of its Affiliates acting through an office in the European Union as successor by giving notice to the other Finance Parties and the Company.

(b) Alternatively the Agent may resign by giving notice to the other Finance Parties and the Company, in which case the Majority Lenders (after consultation with the Company) may appoint a successor Agent.

(c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the Agent (after consultation with the Company) may appoint a successor Agent (acting through an office in the European Union).

(d) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.

(e) The Agent's resignation notice shall only take effect upon the appointment of a successor.

(f) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 27.11. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

(g) After consultation with the Company, the Majority Lenders may, by notice to the Agent, require it to resign in accordance with paragraph (b) above. In this event, the Agent shall resign in accordance with paragraph (b) above.

27.12 **Confidentiality**

(a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.

(c) Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent and the Arranger are obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

27.13 **Relationship with the Lenders**

(a) The Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five Business Days prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

(b) Each Lender shall supply the Agent with any information required by the Agent in order to calculate the Mandatory Cost in accordance with Schedule 4 (*Mandatory Cost Formulae*).

27.14 **Credit appraisal by the Finance Parties**

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Finance Party confirms to the Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

(a) the financial condition, status and nature of each member of the Group;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

(c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and

(d) the adequacy, accuracy and/or completeness of the Information Memorandum, and any other information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.

27.15 **Reference Banks**

If a Reference Bank (or, if a Reference Bank is not a Lender, the Lender of which it is an Affiliate) ceases to be a Lender, the Agent shall (in consultation with the Company) appoint another Lender or an Affiliate of a Lender to replace that Reference Bank.

27.16 **Agent's Management Time**

Any amount payable to the Agent under Clause 16.3 (*Indemnity to the Agent*) and Clause 27.10 (*Lenders' indemnity to the Agent*) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Company and the Lenders, and is in addition to any fee paid or payable to the Agent under Clause 13 (*Fees*).

27.17 **Deduction from amounts payable by the Agent**

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

28. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

(a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;

(b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or

(c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax (but without prejudice to the terms of Clause 14.3 (*Tax indemnity*)).

29. SHARING AMONG THE FINANCE PARTIES

29.1 **Payments to Finance Parties**

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from an Obligor (except pursuant to Clause 2.2 (*Redenomination of Facility B3*) or, in relation to any payments made to a Reallocating Lender on the Reallocation Date only, to Clause 36.3 (*Reallocation of Facility B Commitments*)) other than in accordance with Clause 30 (*Payment mechanics)* (whether by way of set-off or otherwise) and applies that amount to a payment due under the Finance Documents then:

(a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;

(b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 30 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and

(c) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the " **Sharing Payment**") equal to such receipt or

recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 30.5 (*Partial payments*).

29.2 **Redistribution of payments**

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) in accordance with Clause 30.5 (*Partial payments)*.

29.3 **Recovering Finance Party's rights**

(a) On a distribution by the Agent under Clause 29.2 (*Redistribution of payments*), the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in the redistribution.

(b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the relevant Obligor shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

29.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

(a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 29.2 (*Redistribution of payments*) shall, upon request of the Agent, pay to the Agent for account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay); and

(b) that Recovering Finance Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Finance Party for the amount so reimbursed.

29.5 **Exceptions**

(a) This Clause 29 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause 29, have a valid and enforceable claim against the relevant Obligor.

(b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

(i) it notified that other Finance Party of the legal or arbitration proceedings; and

(ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

SECTION 11
ADMINISTRATION

30. PAYMENT MECHANICS

30.1 Payments to the Agent

(a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payments by Obligors or Lenders shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London) with such bank as the Agent specifies.

30.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 30.3 (*Distributions to an Obligor*), Clause 30.4 (*Clawback*) and Clause 27.17 (*Deduction from amounts payable by the Agent)* be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London).

30.3 Distributions to an Obligor

The Agent may (with the consent of the Obligor or in accordance with Clause 31 (*Set-Off*)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

30.4 Clawback

(a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

(b) If the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

30.5 **Partial payments**

(a) If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor under the Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:

(i) first, in or towards payment *pro rata* of any unpaid fees, costs and expenses of the Agent and the Arranger under the Finance Documents;

(ii) secondly, in or towards payment *pro rata* of any accrued interest, fee or commission due but unpaid under this Agreement;

(iii) thirdly, in or towards payment *pro rata* of any principal due but unpaid under this Agreement; and

(iv) fourthly, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.

(b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.

(c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

(d) The Lenders hereby expressly agree that the Agent shall not apply any amount received in accordance with paragraph (a) above to discharge the obligations of an Obligor owed to a Lender if such partial payment received by the Agent is as a result of that Lender being considered as a subordinated creditor by operation of any insolvency law.

30.6 **No set-off by Obligors**

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

30.7 **Business Days**

(a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or an Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

30.8 **Currency of account**

(a) Subject to paragraphs (b) to (f) below, the Base Currency is the currency of account and currency of payment for any sum due from an Obligor under any Finance Document.

(b) A repayment of a Utilisation or Unpaid Sum or a part of a Utilisation or Unpaid Sum shall be made in the currency in which that Utilisation or Unpaid Sum is denominated on its due date.

(c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

(d) Unless otherwise provided in this Agreement or any other Finance Document, any amount (including fees) payable in respect of (i) Facility A, Facility B1, Facility B2, Facility B3 (prior to the Redenomination Date only), or Facility C shall be paid in US Dollars and (ii) Facility B3 (from the Redenomination Date) shall be paid in euro.

(e) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

(f) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

30.9 **Change of currency**

(a) Unless otherwise prohibited by law or regulation, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Company); and

(ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other rounded up or down by the Agent (acting reasonably).

(b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Company) specifies to be necessary be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

31. SET-OFF

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

32. NOTICES

32.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter or (in accordance with Clause 32.5 (*Electronic communication*)) by email.

32.2 **Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

(a) in the case of the Company:

Address:	Calle Hernández de Tejada No. 1 Madrid 28027 Spain
Fax:	+34 91 377 6500
Attention:	Finance Department - Hector Vela

(b) in the case of each Lender, or any other Obligor, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and

(c) in the case of the Agent:

Address:	135 Bishopsgate, London, EC2M 3UR
Fax:	+44 207 085 4564
Attention:	Nick Watkins

or any substitute address or fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

32.3 **Delivery**

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(i) if by way of fax, when received in legible form; or

(ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

(iii) and, if a particular department or officer is specified as part of its address details provided under Clause 32.2 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's signature below (or any substitute department or officer as the Agent shall specify for this purpose).

(c) All notices from or to an Obligor shall be sent through the Agent. The Company may make and/or deliver as agent of each Obligor notices and/or requests on behalf of each Obligor.

(d) Any communication or document made or delivered to the Company in accordance with this Clause 32 will be deemed to have been made or delivered to each of the Obligors.

(e) Any notice delivered in accordance with this Clause 32 after 4pm local time in the place of delivery on a given day shall be deemed to have been received on the next Business Day after such day.

32.4 **Notification of address and fax number**

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to Clause 32.2 (*Addresses*) or changing its own address or fax number, the Agent shall notify the other Parties.

32.5 **Electronic communication**

(a) Any communication to be made between the Agent and a Lender and/or any member of the Group under or in connection with the Finance Documents may be made by electronic mail or other electronic means, if the Agent and the relevant Lender and/or member of the Group:

(i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;

(ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

(iii) notify each other of any change to their address or any other such information supplied by them.

(b) Any electronic communication made between the Agent and a Lender and/or any member of the Group will be effective only when actually received in readable form and in the case of any electronic communication made by a Lender and/or any member of the Group to the Agent only if it is addressed in such a manner as the Agent shall specify for this purpose.

32.6 **English language**

(a) Any notice given under or in connection with any Finance Document must be in English.

(b) All other documents provided under or in connection with any Finance Document must be:

(i) in English or Spanish; or

(ii) if not in English or Spanish, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

32.7 **Obligor Agent**

(a) Each Obligor (other than the Company) by its execution of this Agreement or an Accession Letter (as the case may be) irrevocably appoints the Company to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises (i) the Company on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions (including, in the case of a Borrower, Utilisation Requests or Conversion Requests), to execute on its behalf any documents required hereunder and to make such agreements capable of being given or made by any Obligor notwithstanding that they may affect such Obligor, without further reference to or consent of such Obligor; and (ii) each Finance Party to give any notice, demand or other communication to such Obligor pursuant to the Finance Documents to the Company on its behalf, and in each case such Obligor shall be bound thereby as though such Obligor itself had given such notices and instructions (including, without limitation, any Utilisation Requests or Conversion Requests) or executed or made such agreements or received any notice, demand or other communication.

(b) Every act, agreement, undertaking, settlement, waiver, notice or other communication given or made by the Company, or given to the Company, in its capacity as agent in accordance with paragraph (a) of this Clause 32.7, in connection with this Agreement shall be binding for all purposes on such Obligors as if the other Obligors had expressly made, given or concurred with the same. In the event of any conflict between any notices or other communications of the Company and any other Obligor, those of the Company shall prevail.

32.8 **Use of Websites**

(a) The Company may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the " **Website Lenders**") who accept this method of communication by posting this information onto an electronic website designated by the Company and the Agent (the "**Designated Website**") if:

(i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;

(ii) both the Company and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and

(iii) the information is in a format previously agreed between the Company and the Agent.

If any Lender (a "**Paper Form Lender**") does not agree to the delivery of information electronically then the Agent shall notify the Company accordingly and the Company shall supply the information to the Agent in paper form. In any event the Company shall supply the Agent with at least one copy in paper form of any information required to be provided by it.

(b) The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Company and the Agent.

(c) The Company shall promptly upon becoming aware of its occurrence notify the Agent if:

(i) the Designated Website cannot be accessed due to technical failure;

(ii) the password specifications for the Designated Website change;

(iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;

(iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or

(v) the Company becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Company notifies the Agent under paragraph (c)(i) or paragraph (c)(v) above, all information to be provided by the Company under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

(d) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Company shall comply with any such request within ten Business Days.

33. CALCULATIONS AND CERTIFICATES

33.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are prima facie evidence of the matters to which they relate.

33.2 Certificates and Determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

33.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days, or where the interest, commission or fee is to accrue in respect of any amount denominated in sterling, 365 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

33.4 **Spanish Civil Procedure**

In the event that this Agreement is raised to a Spanish Public Document, for the purposes of Article 572.2 of the Spanish Civil Procedure Law (*Ley de Enjuiciamiento Civil*), all parties expressly agree that the exact amount due at any time by the Obligors to the Lenders will be the amount specified in a certificate issued by the Agent (and/or any Lender) in accordance with Clause 33.2 (*Certificates and Determinations*) as representative of the Lenders reflecting the balance of the accounts referred to in Clause 33.1 (*Accounts*).

33.5 **No personal liability**

If an individual signs a certificate on behalf of any member of the Group and the certificate proves to be incorrect, the individual will incur no personal liability as a result, unless the individual acted fraudulently in giving the certificate. In this case any liability of the individual will be determined in accordance with applicable law.

34. PARTIAL INVALIDITY

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the laws or regulations of any other jurisdiction will in any way be affected or impaired.

35. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party or Finance Party, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law or regulation.

36. AMENDMENTS AND WAIVERS

36.1 **Required consents**

(a) Subject to Clause 36.2 (*Exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Company and any such amendment or waiver will be binding on all Parties.

(b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 36.

(c) The Company may effect, as agent of each Obligor, any amendment or waiver permitted by this Clause 36.

36.2 **Exceptions**

(a) An amendment or waiver that has the effect of changing or which relates to:

(i) the definition of "**Certain Funds Period**", "**Certain Funds Default**" "**Majority Lenders**" or "**Optional Currency**" in Clause 1.1 *(Definitions)*;

(ii) an extension to the Availability Period or to the date of any scheduled payment of any amount under the Finance Documents;

(iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;

(iv) a change in currency of payment of any amount under the Finance Documents;

(v) an increase in or an extension of any Commitment (other than in accordance with Clause 36.3 (*Reallocation of Facility B Commitments*));

(vi) a change to the Borrowers or any of the Guarantors other than in accordance with Clause 26 (*Changes to the Obligors*);

(vii) any provision which expressly requires the consent of all the Lenders; or

(viii) Clause 2.2 (*Finance Parties' rights and obligations)*, Clause 19 (*Guarantee and Indemnity*), Clause 25 (*Changes to the Lenders*), Clause 26 *(Changes to the Obligors*) (save to the extent a provision of Clause 26 refers only to requiring the approval of the Majority Lenders) or this Clause 36,

shall not be made without the prior consent of all the Lenders.

(b) An amendment or waiver which relates to the rights or obligations of the Agent or the Arranger, may not be effected without the consent of the Agent or the Arranger at such time.

36.3 **Reallocation of Facility B Commitments**

(a) The Company may, at its option, agree with any Lender under Facility B1 that:

(i) such Lender's participation in any outstanding Facility B1 Loans be deemed repaid and the Facility B1 Commitments of that Lender be cancelled in whole or in part (but if in part, subject to paragraph (j) below); and

(ii) such Lender becomes a Lender under Facility B2 and/or Facility B3, with a Facility B2 Commitment and/or Facility B3 Commitment in an aggregate amount equal to the amount by which its Facility B1 Commitments are to be repaid and cancelled as contemplated in sub paragraph (i) above, and a participation in Facility B2 Loans and/or, as the case may be, Facility B3 Loans in a corresponding amount which, in the case of Facility B3, shall be denominated in euro in accordance with paragraph (c) below,

(a "**Reallocation**").

(b) The proposed effective date for a Reallocation shall be the last day of an Interest Period relating to Facility B1 Loans in an amount at least equal to the Cancellation Amount (as defined in paragraph (c) below).

(c) If the Company chooses to exercise the option set out in paragraph (a) above, it shall deliver a Reallocation Notice to the Agent by no later than 11 a.m. (London time) three Business Days prior to the proposed effective date of the Reallocation notifying of its intention to effect such Reallocation together with details as to:

(i) the name of the proposed Lender which has agreed to the Reallocation (a " **Reallocating Lender**");

(ii) the proposed effective date for the Reallocation (the "**Reallocation Date**");

(iii) the amount, in US Dollars, by which the Facility B1 Commitments of the Reallocating Lender are to be reduced and cancelled (the "**Cancellation Amount**");

(iv) where the Reallocation is in whole or part in respect of Facility B2, the amount, in US Dollars, by which the Facility B2 Commitments of that Reallocating Lender are to be increased (if applicable) (the " **Facility B2 Increase**") and the amount, in US Dollars, of the Reallocating Lender's proposed participation in Facility B2 Loans (the " **Facility B2 Participation**");

(v) where the Reallocation is in whole or part in respect of Facility B3 the amount, in euro, by which the Facility B3 Commitments of the Reallocating Lender are to be increased and of the Reallocating Lender's proposed participation in Facility B3 Loans (a " **Facility B3 Participation**") (being equivalent, in each case, when converted at a rate to be agreed between the Company and the Reallocating Lender, to the amount in US Dollars of the Cancellation Amount *less* the amount of any Facility B2 Increase of that Reallocating Lender); and

(vi) the amount of the Total Facility B1 Commitments, the Total Facility B2 Commitments and the Total Facility B3 Commitments, assuming the Reallocation has been effected,

and such Reallocation Notice shall be signed by the Reallocating Lender.

(d) With each Reallocation Notice, the Company shall deliver to the Agent (copied to the Reallocating Lender) a Selection Notice indicating the amounts of the Facility B2 Loans and/or Facility B3 Loans which it intends to borrow with effect from the Reallocation Date (in the case of Facility B3, assuming the conversions set out in paragraph (c)(v) have occurred), and the Interest Periods applicable thereto commencing on the Reallocation Date (such Interest Periods to be in accordance with Clause 11.1 (*Selection of Interest Periods*) but provided that the restriction in Clause 4.6 (*Maximum number of Loans*) shall be disapplied for a selection of Loans pursuant to this paragraph (d)).

(e) In the event that the Company fails to deliver a Selection Notice, a Selection Notice will be deemed to have been given for Facility B2 Loans and/or, as the case may be, Facility B3 Loans in an amount equal to the Total Facility B2 Commitments and/or, as the case may be, the Total Facility B3 Commitments as if the Reallocation had occurred on the terms of the Reallocation Notice, and each relevant Interest Period will be one Month.

(f) No Reallocation Notice or Selection Notice may be delivered to the Agent earlier than 10 Business Days prior to the proposed Reallocation Date.

(g) The Agent shall, as soon as reasonably practicable after receipt by it of a duly completed Reallocation Notice appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, but in any event prior to the Reallocation Date, execute that Reallocation Notice.

(h) On the Reallocation Date,

(i) the Facility B1 Commitment of the Reallocating Lender shall be cancelled in an amount equal to the Cancellation Amount;

(ii) the Reallocating Lender shall become a Lender under Facility B2 and/or, as the case may be, Facility B3, with Facility B2 Commitments and/or, as the case may be, Facility B3 Commitments in the amounts set out in the Reallocation Notice;

(iii) where the Reallocation is in whole or part in respect of Facility B2, the existing Interest Periods applicable to Facility B2 Loans shall terminate, the Reallocating Lender's participation in any Facility B1 Loans shall be deemed repaid (in whole or part as appropriate), and the Reallocating Lender shall be deemed to have advanced a participation in respect of Facility B2 Loans in an amount equal to its Facility B2 Participation;

(iv) where the Reallocation is in whole or part in respect of Facility B3, the existing Interest Periods applicable to Facility B3 Loans shall terminate, and:

(A) the Reallocating Lender shall make its Facility B3 Participation available through its Facility Office to the Agent; and

(B) the Agent shall, upon receipt of such Facility B3 Participation, immediately transfer the same to the Company (or as the Company may direct); and

(C) the Company shall pay to the Agent or shall procure that there is paid to the Agent an amount in US Dollars equivalent, at the rate agreed between the Company and the Reallocating Lender, to the Facility B3 Participation, and the Agent shall pay such amount to the Reallocating Lender,

with each of the above steps (A) to (C) deemed to occur simultaneously for value on the same day; and

(v) the Total Facility B1 Commitments shall be reduced and cancelled, and the Total Facility B2 Commitments and/or, as the case may be, the Total Facility B3 Commitments shall be increased to give effect to the Reallocation.

(i) The Agent shall notify the Lenders of receipt of any request received by it under this Clause 36.3 and shall, as soon as practicable after the Reallocation Date, circulate to the Company and each Lender an updated form of Part II of Schedule 1, showing the Total Commitments for each Facility following the Reallocation which shall be deemed to replace Part II of Schedule 1 to this Agreement.

(j) Commitments reduced or increased under this Clause 36.3 must be in a minimum amount of US$25,000,000 in relation to Facility B1 or Facility B2, and €25,000,000 in relation to Facility B3.

(k) No Lender is under any obligation to agree to a reduction in its Facility B1 Commitments or to provide an increase to its Facility B2 Commitment or Facility B3 Commitment.

37. **COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

SECTION 12
GOVERNING LAW AND ENFORCEMENT

38. **GOVERNING LAW**

This Agreement and all non-contractual obligations arising from or connected with it are governed by English law.

39. **ENFORCEMENT**

39.1 **Jurisdiction of English Courts**

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (a "**Dispute**").

(b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) This Clause 39.1 is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law or regulation, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

39.2 **Service of process**

Without prejudice to any other mode of service allowed under any relevant law or regulation, each Obligor (other than an Obligor incorporated in England and Wales):

(a) shall irrevocably appoint the Process Agent as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document and shall procure that the Process Agent confirms its acceptance of that appointment in writing on or before the date of this Agreement; and

(b) agrees that failure by the Process Agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1
THE ORIGINAL PARTIES

Part I
The Obligors

Name of Original Borrower	Registration number (or equivalent, if any)
CEMEX España, S.A.	Nº Hoja-Registro Mercantil, Madrid: M- 156542 NIF: A46/004214

Part II
The Original Lenders
as at the Fourth Amendment Date

Lender	Facility B1 Commitment (US$)	Facility B2 Commitment (US$)	Facility B3 Commitment (US$*)	Facility C Commitment (US$)
Citibank International plc, Sucursal en España	Zero	87,666,666.66	Zero	89,666,666.66
The Royal Bank of Scotland plc	Zero	116,666,666.66	Zero	116,666,666.66
Banco Bilbao Vizcaya Argentaria, S.A.	Zero	Zero	116,666,666.65	116,666,666.65
Banco Santander, S.A.	Zero	100,681,818.18	Zero	100,681,818.18
The Bank of Tokyo-Mitsubishi UFJ, Ltd., Sucursal en España	105,681,818.18	Zero	Zero	105,681,818.51
Barclays Bank PLC	105,681,818.18	Zero	Zero	105,681,818.18
Bayerische Hypo- und Vereinsbank AG	85,681,818.18	Zero	Zero	105,681,818.18
Bayerische Landesbank	105,681,818.18	Zero	Zero	105,681,818.18
BNP Paribas Sucursal en España	Zero	Zero	105,681,818.18	105,681,818.18
Bank of America, Sucursal en España	Zero	105,681,818.18	Zero	105,681,818.18
Caja de Ahorros de Galicia	Zero	95,681,818.18	Zero	80,681,818.18
Caja Madrid	Zero	Zero	105,681,818.18	105,681,818.18
Calyon	105,681,818.18	Zero	Zero	105,681,818.18
FORTIS BANK, S.A. Sucursal en España	105,681,818.18	Zero	Zero	105,681,818.18
HSBC Bank plc Sucursal en España	Zero	105,681,818.18	Zero	105,681,818.18
ING Belgium, S.A. Sucursal en España	Zero	Zero	105,681,818.18	105,681,818.18
Instituto de Crédito Oficial	Zero	105,681,818.18	Zero	105,681,818.18
Intesa Sanpaolo S.p.A., Sucursal en España	Zero	Zero	105,681,818.18	105,681,818.18
JPMORGAN CHASE BANK N.A., Sucursal en España	Zero	99,681,818.18	Zero	99,681,818.18
Lloyds TSB Bank plc	Zero	105,681,818.18	Zero	105,681,818.18
Mizuho Corporate Bank Nederland N.V.	105,681,818.18	Zero	Zero	105,681,818.18
Scotiabank Europe plc	105,681,818.18	Zero	Zero	105,681,818.18

* To be converted into euro on the Redenomination Date and an updated Part II of this Schedule 1 is to be provided pursuant to paragraph (h) of Clause 2.2 (*Redenomination of Facility B3*)

Lender	Facility B1 Commitment (US$)	Facility B2 Commitment (US$)	Facility B3 Commitment (US$*)	Facility C Commitment (US$)
Société Générale	57,681,818.18	Zero	Zero	105,681,818.18
Standard Chartered Bank	4,318,181.82	Zero	Zero	45,681,818.18
WestLB AG, Sucursal en España	105,681,818.18	Zero	Zero	105,681,818.18
ABN AMRO Bank N.V. Sucursal en España	Zero	75,000,000.00	Zero	75,000,000.00
Banco de Sabadell, S.A.	Zero	50,000,000.00	Zero	50,000,000.00
The Governor and Company of the Bank of Ireland	33,333,333.34	Zero	Zero	33,333,333.34
MEDIOBANCA - BANCA DI CREDITO FINANZIARIO S.P.A.	70,833,333.34	Zero	Zero	70,833,333.34
BANCO ESPAÑOL DE CRÉDITO, S.A.	Zero	38,166,666.67	Zero	38,166,666.67
BRED BANQUE POPULAIRE	Zero	Zero	16,666,666.67	16,666,666.67
CAISSE REGIONALE DE CREDIT AGRICOLE MUTUEL DE PARIS ET D'ILE-DE-FRANCE	24,166,666.67	Zero	Zero	24,166,666.67
Crédit Industriel et Commercial, London Branch	24,166,666.67	Zero	Zero	24,166,666.67
Banca Monte dei Paschi di Siena S.p.A., London Branch	16,666,666.67	Zero	Zero	16,666,666.67
BANCO CAIXA GERAL	12,333,333.34	Zero	Zero	12,333,333.34
Caixa d´Estalvis i Pensions de Barcelona	Zero	8,333,333.34	Zero	8,333,333.34
CAJA DE AHORROS DE ASTURIAS	12,333,333.34	Zero	Zero	12,333,333.34
Landesbank Baden-Württemberg, London Branch	14,333,333.34	Zero	Zero	14,333,333.34
Morgan Stanley Bank International Limited	Zero	8,333,333.34	Zero	8,333,333.34
Westpac Europe Limited	8,333,333.34	Zero	Zero	8,333,333.34
Atlantic Security Bank	5,000,000.00	Zero	Zero	Zero
Banco de Galicia	Zero	40,000,000.00	Zero	Zero
CENTROBANCA - Banca di Credito Finanziario e Mobiliare S.p.A.	35,000,000.00	Zero	Zero	35,000,000

Lender	Facility B1 Commitment (US$)	Facility B2 Commitment (US$)	Facility B3 Commitment (US$*)	Facility C Commitment (US$)
Landesbank Baden-Württemberg, Stuttgart	49,363,636.36	Zero	Zero	Zero
Takarekbank (Magyar)	2,000,000.00	Zero	Zero	Zero
TOTAL	**1,301,000,000.03**	**1,142,939,393.93**	**556,060,606.04**	**3,000,000,000.00**

SCHEDULE 2
CONDITIONS PRECEDENT

Part I
Conditions Precedent to Initial Utilisation

1. The Company

(a) A copy of the current constitutional documents of the Company.

(b) A power of attorney granting a specific individual or individuals sufficient power to sign the Finance Documents on behalf of the Company and a copy of a resolution of the board of directors of the Company:

(i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;

(ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and

(iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.

(c) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above in relation to the Finance Documents.

(d) A certificate of the Company (signed by an Authorised Signatory) confirming that borrowing the Total Commitments would not cause any borrowing or similar limit binding on it to be exceeded.

(e) A certificate of an Authorised Signatory of the Company certifying that each copy document relating to it specified in this Part I of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

2. Transaction Documents and related documents

A copy of the current constitutional documents of BidCo.

3. Finance Documents

(a) This Agreement executed by the parties hereto.

(b) Any Fee Letter.

4. Legal Opinions

(a) A legal opinion as to English law from Clifford Chance substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(b) A legal opinion with respect to the laws and regulations of the Kingdom of Spain from Clifford Chance SL, substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(c) An opinion from in-house counsel of the Company, substantially in the form distributed to the Original Lenders prior to signing this Agreement.

5. Offer Related Conditions

(a) A copy, certified as being a true and complete copy by an Authorised Signatory of the Company, of the Announcement.

(b) A copy, certified as being a true and complete copy by an Authorised Signatory of the Company, of the Offer Document.

(c) A copy, certified as being a true and complete copy by an Authorised Signatory of the Company, of the announcement that the Offer has become or has been declared unconditional in all respects together with a certificate from an Authorised Signatory of the Company that in BidCo declaring the Offer unconditional, BidCo is not in breach of Clause 23.18 (*The Offer*).

(d) Either:

(i) a notice of the Treasurer of the Commonwealth of Australia stating that the Commonwealth Government does not object to CEMEX, S.A.B. de C.V. or any direct of indirect subsidiary of it acquiring a substantial shareholding in Target; or

(ii) evidence that the Treasurer of the Commonwealth of Australia has become, or is, precluded (by reason of lapse of time or otherwise) from making an order in respect of the acquisition of Target by such a person under the Foreign Acquisitions and Takeovers Act 1975 (Cth).

(e) A certificate from the Company dated no earlier than the Unconditional Date confirming that:

(i) BidCo has complied in all material respects with the requirements of Chapter 6 (takeovers) of the Corporations Act and that all other Australian regulatory and other approvals contemplated by the Offer or to which the Offer is subject have been obtained;

(ii) all United States or other regulatory requirements with regard to the acquisition of any Target ADRs have been obtained;

(iii) BidCo has declared the Offer free from all defeating conditions in accordance with Section 650F of the Corporations Act; and

(iv) it, CEMEX Parent and BidCo (in each case, as confirmed to the Company by CEMEX Parent) has or will have sufficient funds available for BidCo to pay for all Target Shares to be acquired by it pursuant to the Offer.

6. Other Documents and Evidence

(a) The Group Structure Chart.

(b) The Funds Flow Statement.

(c) The Original Financial Statements of the Company.

(d) Evidence that the process agent referred to in Clause 39.2 (*Service of process*) has accepted its appointment.

Part II
Conditions Precedent Required to be delivered by an Additional Obligor

Obligors:

1. An Accession Letter, duly executed by the Additional Obligor and the Company.

   (a) A copy of the constitutional documents of the Additional Obligor.

   (b) A copy of a resolution of the board of directors of the Additional Obligor:

      (i) approving the terms of, and the transactions contemplated by, the Accession Letter and the Finance Documents and resolving that it execute the Accession Letter;

      (ii) authorising a specified person or persons to execute the Accession Letter and other Finance Documents on its behalf; and

      (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.

   (c) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above.

   (d) Should the legal advisers of the Lenders consider it advisable, a copy of a resolution signed by all the holders of the issued shares of the Additional Obligor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Obligor is a party.

   (e) A certificate of the Additional Obligor (signed by an Authorised Signatory) confirming that guaranteeing the Total Commitments would not cause any guaranteeing or similar limit binding on it to be exceeded.

   (f) A certificate of an Authorised Signatory of the Additional Obligor certifying that each copy document listed in this Part II of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of the Accession Letter.

2. Legal opinions

   (a) A legal opinion of the legal advisers to the Additional Obligor in form and substance reasonably satisfactory to the legal advisers of the Lenders.

   (b) A legal opinion of Clifford Chance, or other firm that can opine for the Additional Obligor if not Clifford Chance, legal advisers to the Lenders.

3. Other documents and evidence

   (a) Evidence that any process agent referred to in Clause 39.2 (Service of process) has accepted its appointment.

(b) In relation to any Additional Borrower incorporated in Spain, a copy of form PE-1 stamped by the Bank of Spain (Banco de España), whereby it assigns a Financial Operation Number ("**NOF**") to the accession of such Additional Borrower.

(c) A copy of any other Authorisation or other document, opinion or assurance which the Agent considers (after having taken appropriate legal advice) to be necessary or desirable (if it has notified the Additional Obligor and the Company accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

(d) The Original Financial Statements of the Additional Guarantor.

SCHEDULE 3
REQUESTS

Part I
Utilisation Request

From: *[Each relevant Borrower]*

To: [*Agent*]

Dated:

Dear Sirs

CEMEX – US$6,000,000,000 Acquisition Facilities Agreement
dated 6 December 2006 (as amended) (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.

2. We wish to borrow a Loan under each Facility on the following terms:

	Facility A	Facility B1	Facility B2	Facility B3	Facility C
(a) Proposed Utilisation Date:	[•] (or, if that is not a Business Day, the next Business Day)	[•] (or, if that is not a Business Day, the next Business Day)	[•] (or, if that is not a Business Day, the next Business Day)	[•] (or, if that is not a Business Day, the next Business Day)	[•] (or, if that is not a Business Day, the next Business Day)
(b) Borrower:	[•]	[•]	[•]	[•]	[•]
(c) Facility to be utilised:	Facility A	Facility B1	Facility B2	Facility B3	Facility C
(d) Currency of Loan:	[•]	[•]	US Dollars	Euro	[•]
(e) Amount:	[•] or, if less, the relevant Available Facility	[•] or, if less, the relevant Available Facility	[•] or, if less, the relevant Available Facility	[•] or, if less, the relevant Available Facility	[•] or, if less, the relevant Available Facility
(f) Interest Period:	[•]	[•]	[•]	[•]	[•]

3. We confirm that, to the extent applicable, each condition specified in Clause 4.3 (*Further conditions precedent*) is satisfied or waived on the date of this Utilisation Request.

4. The proceeds of each Loan should be credited to the relevant accounts as follows:

Facility A Loan:	[ ].
Facility B1 Loan:	[ ].
Facility B2 Loan:	[ ].
Facility B3 Loan:	[ ].
Facility C Loan:	[ ].

5. This Utilisation Request is irrevocable.

6. Terms used in this Utilisation Request which are not defined in this Utilisation Request but are defined in the Facilities Agreement shall have the meaning given to those terms in the Facilities Agreement.

Yours faithfully

_____

authorised signatory for
[each relevant Borrower]

Part II
Selection Notice

Applicable to a Facility A Term Loan, a Facility B Loan or a Facility C Loan

From: [*Borrower*] [*Company*]*

To: [*Agent*]

Dated:

Dear Sirs

CEMEX – US$6,000,000,000 Acquisition Facilities Agreement
dated 6 December 2006 (as amended) (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Selection Notice. Terms defined in the Facilities Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.

2. We refer to the following Facility [A Term]/[B1]/[B2]/[B3]/[C] Loan[s] with an Interest Period ending on [ ]**.

3. [We request that the above Facility [A Term]/[B1]/[B2]/[B3]/[C] Loan[s] be divided into [ ] Facility [A Term]/[B1]/[B2]/[B3]/[C] Loan[s] with the following [Base Currency Amounts] [amounts]*** and Interest Periods:]****

   or

   [We request that the next Interest Period for the above Facility [A Term]/[B1]/[B2]/[B3]/[C] Loan[s] is [ ]].*****

4. This Selection Notice is irrevocable.

Yours faithfully

_____

authorised signatory for

[the Company on behalf of] [insert name of Relevant Borrower] *

NOTES:

* Amend as appropriate. The Selection Notice can be given by the Borrower or the Company.
** Insert details of all Term Loans for the relevant Facility which have an Interest Period ending on the same date.
*** Use for Facility B3 Loans following Redenomination.
**** Use this option if division of Loans is requested.
***** Use this option if sub-division is not required.

Part III
Conversion Request

To:

From:

Dated:

CEMEX – US$6,000,000,000 Acquisition Facilities Agreement
dated 6 December 2006 (as amended) (the "Facilities Agreement")

1. We refer to the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning when used in this request.
2. This is a Conversion Request.
3. [We hereby give you notice that we wish to exercise the option set out in Clause 8.1 (*First Term Out Option*) as follows:-

   Outstanding Facility A Loan to be converted

   (a) Currency: _____

   (b) Amount of the Facility A Loan to be converted on the Initial Facility A Termination Date: _____

   New Facility A Loan to be made

   (a) Currency:_____

   (b) Amount of the undrawn Facility A Commitment to be drawn down as a Facility A Term Loan: _____] / or*

   [We hereby give you notice that we wish to exercise the option set out in Clause 8.2 (*Second Term Out Option*) as follows:-

   (a) Currency: _____

   (b) Amount of the Facility A Term Loan(s) to be have its final maturity extended to the Second Term Out Option Termination Date: _____]
4. We confirm that, as at the date of this Request, no Default has occurred and is continuing.

Yours faithfully

For and on behalf of

[The Company]

* Select as appropriate.

Part IV
Reallocation Notice

From: The Company (with the countersignature of [*Reallocating Lender*])

To: [*Agent*]

Dated:

Dear Sirs

CEMEX – US$6,000,000,000 Acquisition Facilities Agreement
dated 6 December 2006 (as amended) (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Reallocation Notice. Terms defined in the Facilities Agreement have the same meaning in this Reallocation Notice unless given a different meaning in this Reallocation Notice.

2. We wish to effect a Reallocation under Clause 36.3 (*Reallocation of Facility B Commitments*) on the following terms:

Details of Reallocation:	
Reallocating Lender:	
Proposed Reallocation Date:	
Cancellation Amount in respect of Facility B1 Commitments:	USD
For Reallocation in respect of Facility B2:	
Proposed amount of increase of Facility B2 Commitments:	USD
Proposed amount of Facility B2 Participation:	USD
For Reallocation in respect of Facility B3:	
Proposed amount of increase of Facility B3 Commitments:	EUR
Proposed amount of Facility B3 Participation:	EUR
Total Commitments:	
Total Facility B1 Commitments following Reallocation:	USD
Total Facility B2 Commitments following Reallocation:	USD
Total Facility B3 Commitments following Reallocation:	EUR

Yours faithfully

For and on behalf of

_____

[The Company]

We agree to the terms of the Reallocation as set out above:

_____

[Reallocating Lender]

Countersigned in acknowledgement:

_____

[Agent]

SCHEDULE 4
MANDATORY COST FORMULAE

1. The Mandatory Cost is an addition to the interest rate to compensate Lenders for the cost of compliance with (a) the requirements of the Bank of England and/or the Financial Services Authority (or, in either case, any other authority which replaces all or any of its functions) or (b) the requirements of the European Central Bank.

2. On the first day of each Interest Period (or as soon as possible thereafter) the Agent shall calculate, as a percentage rate, a rate (the " **Additional Cost Rate**") for each Lender, in accordance with the paragraphs set out below. The Mandatory Cost will be calculated by the Agent as a weighted average of the Lenders' Additional Cost Rates (weighted in proportion to the percentage participation of each Lender in the relevant Loan) and will be expressed as a percentage rate per annum.

3. The Additional Cost Rate for any Lender lending from a Facility Office in a Participating Member State will be the percentage notified by that Lender to the Agent. This percentage will be certified by that Lender in its notice to the Agent to be its reasonable determination of the cost (expressed as a percentage of that Lender's participation in all Loans made from that Facility Office) of complying with the minimum reserve requirements of the European Central Bank in respect of loans made from that Facility Office.

4. The Additional Cost Rate for any Lender lending from a Facility Office in the United Kingdom will be calculated by the Agent as follows:

   (a) in relation to a sterling Loan:

$$\frac{AB + C(B - D) + Ex\ 0.01}{100 - (A + C)} \quad \textit{per cent. per annum}$$

   (b) in relation to a Loan in any currency other than sterling:

$$\frac{Ex\ 0.01}{300} \quad \textit{per cent. per annum}$$

   Where:

   A is the percentage of Eligible Liabilities (assuming these to be in excess of any stated minimum) which that Lender is from time to time required to maintain as an interest free cash ratio deposit with the Bank of England to comply with cash ratio requirements.

   B is the percentage rate of interest (excluding the Margin and the Mandatory Cost and, if the Loan is an Unpaid Sum, the additional rate of interest specified in paragraph (a) of Clause 10.3 (*Default interest*)) payable for the relevant Interest Period on the Loan.

C is the percentage (if any) of Eligible Liabilities which that Lender is required from time to time to maintain as interest bearing Special Deposits with the Bank of England.

D is the percentage rate per annum payable by the Bank of England to the Agent on interest bearing Special Deposits.

E is designed to compensate Lenders for amounts payable under the Fees Rules and is calculated by the Agent as being the average of the most recent rates of charge supplied by the Reference Banks to the Agent pursuant to paragraph 7 below and expressed in pounds per £1,000,000.

5. For the purposes of this Schedule:

(a) "**Eligible Liabilities**" and "**Special Deposits**" have the meanings given to them from time to time under or pursuant to the Bank of England Act 1998 or (as may be appropriate) by the Bank of England;

(b) "**Fees Rules**" means the rules on periodic fees contained in the FSA Supervision Manual or such other law or regulation as may be in force from time to time in respect of the payment of fees for the acceptance of deposits;

(c) "**Fee Tariffs**" means the fee tariffs specified in the Fees Rules under the activity group A.1 Deposit acceptors (ignoring any minimum fee or zero rated fee required pursuant to the Fees Rules but taking into account any applicable discount rate); and

(d) "**Tariff Base**" has the meaning given to it in, and will be calculated in accordance with, the Fees Rules.

6. In application of the above formulae, A, B, C and D will be included in the formulae as percentages (i.e. 5 per cent. will be included in the formula as 5 and not as 0.05). A negative result obtained by subtracting D from B shall be taken as zero. The resulting figures shall be rounded to four decimal places.

7. If requested by the Agent, each Reference Bank shall, as soon as practicable after publication by the Financial Services Authority, supply to the Agent, the rate of charge payable by that Reference Bank to the Financial Services Authority pursuant to the Fees Rules in respect of the relevant financial year of the Financial Services Authority (calculated for this purpose by that Reference Bank as being the average of the Fee Tariffs applicable to that Reference Bank for that financial year) and expressed in pounds per £1,000,000 of the Tariff Base of that Reference Bank.

8. Each Lender shall supply any information required by the Agent for the purpose of calculating its Additional Cost Rate. In particular, but without limitation, each Lender shall supply the following information on or prior to the date on which it becomes a Lender:

(a) the jurisdiction of its Facility Office; and

(b) any other information that the Agent may reasonably require for such purpose.

Each Lender shall promptly notify the Agent of any change to the information provided by it pursuant to this paragraph.

9. The percentages of each Lender for the purpose of A and C above and the rates of charge of each Reference Bank for the purpose of E above shall be determined by the Agent based upon the information supplied to it pursuant to paragraphs 7 and 8 above and on the assumption that, unless a Lender notifies the Agent to the contrary, each Lender's obligations in relation to cash ratio deposits and Special Deposits are the same as those of a typical bank from its jurisdiction of incorporation with a Facility Office in the same jurisdiction as its Facility Office.

10. The Agent shall have no liability to any person if such determination results in an Additional Cost Rate which over or under compensates any Lender and shall be entitled to assume that the information provided by any Lender or Reference Bank pursuant to paragraphs 3, 7 and 8 above is true and correct in all respects.

11. The Agent shall distribute the additional amounts received as a result of the Mandatory Cost to the Lenders on the basis of the Additional Cost Rate for each Lender based on the information provided by each Lender and each Reference Bank pursuant to paragraphs 3, 7 and 8 above.

12. Any determination by the Agent pursuant to this Schedule in relation to a formula, the Mandatory Cost, an Additional Cost Rate or any amount payable to a Lender shall, in the absence of manifest error, be conclusive and binding on all Parties.

13. The Agent may from time to time, after consultation with the Company and the Lenders, determine and notify to all Parties any amendments which are required to be made to this Schedule in order to comply with any change in law, regulation or any requirements from time to time imposed by the Bank of England, the Financial Services Authority or the European Central Bank (or, in any case, any other authority which replaces all or any of its functions) and any such determination shall, in the absence of manifest error, be conclusive and binding on all Parties.

SCHEDULE 5
FORM OF TRANSFER CERTIFICATE

To: [Agent]

From: [The Existing Lender] (the "**Existing Lender**") and [The New Lender] (the "**New Lender**")

Dated:

CEMEX – US$6,000,000,000 Acquisition Facilities Agreement
dated 6 December 2006 (as amended) (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Transfer Certificate. Terms defined in the Facilities Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.

2. We refer to Clause 25.5 (*Procedure for transfer*):

   (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation all or part of the Existing Lender's Commitment, rights and obligations referred to in the schedule to this certificate in accordance with Clause 25.5 (*Procedure for transfer*).

   (b) The proposed Transfer Date is [•].

   (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 32.2 (*Addresses*) are set out in the schedule to this certificate.

3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 25.4 (*Limitation of responsibility of Existing Lenders*).

4. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.

5. We confirm that we have carried out and are satisfied with the results of all compliance checks we consider necessary in relation to our participation in the Facilities.

6. The New Lender confirms that it is not a U.S. Lender (and has not entered into a sub-participation agreement with a U.S. Lender in respect of the Commitment to be transferred pursuant hereto).

7. This Transfer Certificate is governed by English law.

THE SCHEDULE

Commitment/rights and obligations to be transferred

[*insert relevant details*]

[*Facility Office address, email, fax number and attention details for notices and account details for payments* ,]

[Existing Lender] [New Lender]

By: By:

This Transfer Certificate is accepted by the Agent and the Transfer Date is confirmed as [•].

[Agent]

By:

SCHEDULE 6
FORM OF ACCESSION LETTER

To: [*Agent*]

From: [*Subsidiary*] and [*Company*]

Dated:

Dear Sirs

CEMEX – US$6,000,000,000 Acquisition Facilities Agreement
dated 6 December 2006 (as amended) (the "Facilities Agreement")

1. [*Subsidiary*] agrees to become an [*Additional Guarantor/Additional Borrower*]* and to be bound by the terms of the Facilities Agreement and the other Finance Documents as an [*Additional Guarantor/Additional Borrower*]* pursuant to [Clause 26.3 (*Additional Guarantors*) / Clause 26.2 (*Additional Borrowers*)]* of the Facilities Agreement. [*Subsidiary*] is a limited liability company duly incorporated under the laws of [*name of relevant jurisdiction*] with registered number [●].

2. [*Subsidiary's*] administrative details are as follows:

   Address:

   Fax No.:

   Attention:

3. This letter is governed by English law.

4. Terms which are used in this Accession Letter which are not defined in this Accession Letter but are defined in the Facilities Agreement shall have the meaning given to those terms in the Facilities Agreement.

   [This Accession Letter is entered into and delivered as a deed.]**

Signed by: _____ _____

[Company] [Subsidiary]

NOTES:

* Delete as appropriate.

** If the Facilities are fully drawn there may be an issue in relation to past consideration for a proposed Additional Obligor. This can be overcome by acceding by way of deed.

SCHEDULE 7
FORM OF COMPLIANCE CERTIFICATE

To: [•] as Agent

From: [*Company*]

Dated:

Dear Sirs

CEMEX – US$6,000,000,000 Acquisition Facilities Agreement
dated 6 December 2006 (as amended) (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Compliance Certificate. Terms defined in the Facilities Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2. We confirm that:

   (a) Pursuant to Clause 22.2 (*Financial condition*) the financial condition of the Group[1] as of [ ] evidenced by the consolidated financial statements for the financial year/two financial half years then ended comply with the following conditions:

      (i) Net Borrowings EUR_____ ("**A**")

      comprising EUR [Total Borrowings]

      EUR [Liquid Investments]

      (ii) Adjusted EBITDA

      comprising:

      EUR [operating profit]

      EUR [annual depreciation for fixed assets]

      EUR [annual amortisation of intangible assets]

      EUR [annual amortisation of start-up costs of the Group]

      EUR [dividends received from non-consolidated companies]

      EUR [dividends received from companies consolidated by the equity method]

      EUR [CEMEX Capital Contributions]

[1] To be deemed to include BidCo and its Subsidiaries in the period between the Acquisition of Target Date and the Acquisition of BidCo Date.

EUR [Income for use of CO_2 Emission Rights (if not already included in operating profit)]

EUR [acquired business (i) operating income and (ii) depreciation and amortisation expense]

EUR _____ ("**B**")

A:B is [•]

(iii) EBITDA EUR _____ ("**B**")

Finance Charges

comprising EUR [interest expenses]

EUR [other expenses]

EUR _____ ("**C**")

B:C to be greater than or equal to 3:1

(b) As at the date of this Certificate the following Subsidiaries of the Group fall within the definition of Material Subsidiaries as set out in Clause 1.1 *(Definitions)*:

(c) As of [*end of Relevant Period*] the Consolidated Total Assets is: EUR [ ].

3. We confirm that no Default is continuing.

Signed: _____

Authorised Signatory of Company

[*insert applicable certification language*]

_____

For and on behalf of

[*name of auditors of the Company*]

SCHEDULE 8
TIMETABLES

	Loans in euro or US Dollars	Loans in other currencies
Agent notifies the Company if a currency is approved as an Optional Currency in accordance with Clause 4.5 (*Conditions relating to Optional Currencies*)	—	U-5
Delivery of a duly completed Utilisation Request (Clause 5.1 (*Delivery of a Utilisation Request*)) or Selection Notice (Clause 11 (*Interest Periods*) and 6 (*Optional Currencies*))	U-3 11.00am	U-4 11.00am
Agent determines (in relation to a Utilisation) the Base Currency Amount of the Loan, if required under paragraph of Clause 5.4 (*Lenders' participation*) and notifies the Lenders of the Loan in accordance with Clause 5.4 (*Lenders' participation*)	U-3 3.00pm	U-4 3.00pm
Agent determines amount of the Loan in Optional Currency in accordance with Clause 6.3 (*Change of currency*)	U-3 3.00pm	U-4 3.00pm
Agent determines amount of the Loan in Optional Currency in accordance with Clause 6.4 (*Same Optional Currency during successive Interest Periods*)	U-3 3.00pm	U-4 3.00pm
Agent receives a notification from a Lender under Clause 6.2 (*Unavailability of a currency*)	U-2 9.30am	U-2 9.30am
Agent gives notice in accordance with Clause 6.2 (*Unavailability of a currency*)	U- 2 10.30am	U- 2 10.30am
Agent determines amount of the Loan in Optional Currency converted into Base Currency in accordance with paragraph (b) of Clause 6.4 (*Same Optional Currency during successive Interest Periods*)	Business Day on which the Agent originally calculated the Base Currency Amount	Business Day on which the Agent originally calculated the Base Currency Amount

LIBOR or EURIBOR is fixed	Quotation Day as of 11:00 a.m. London time in respect of LIBOR and as of 11.00 a.m. Brussels time in respect of EURIBOR	Quotation Day as of 11:00 a.m. London time

"**U**" = date of utilisation

"**U - X**" = X Business Days prior to date of utilisation

SCHEDULE 9
FORM OF CONFIDENTIALITY UNDERTAKING

[Letterhead of Existing Bank]

To:

[insert name of Potential Lender]

Re: **The Facilities**

Company: CEMEX España, S.A. (the "**Company**")
Date:
Amount: US$[•] and €[•]
Agent: The Royal Bank of Scotland plc

Dear Sirs

We understand that you are considering participating in the Facilities. In consideration of us agreeing to make available to you certain information, by your signature of a copy of this letter you agree as follows:

1. *Confidentiality Undertaking*: You undertake:

   (a) to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by paragraph 2 below and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information;

   (b) to keep confidential and not disclose to anyone except as provided for by paragraph 2 below the fact that the Confidential Information has been made available or that discussions or negotiations are taking place or have taken place between us in connection with the Facilities;

   (c) to use the Confidential Information only for the Permitted Purpose;

   (d) to use all reasonable endeavours to ensure that any person to whom you pass any Confidential Information (unless disclosed under paragraph 2(b) below) acknowledges and complies with the provisions of this letter as if that person were also a party to it; and

   (e) not to make enquiries of any member of the Group or any of their officers, directors, employees or professional advisers relating directly or indirectly to the Facilities.

2. *Permitted Disclosure*: We agree that you may disclose such Confidential Information and such of those matters referred to in paragraph 1(b) above to the extent necessary for the Permitted Purpose:

   (a) to members of the Participant Group and their officers, directors, employees, professional advisers and auditors if any person to whom the Confidential Information is to be given pursuant to this paragraph 2(a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information, except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

   (b) in the event that you become a Lender under the Facility Agreement, in accordance with and subject to the terms of clause 25.8 of the Facility Agreement;

   (c) to any person to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation; or

   (d) with the prior written consent of us and the Company.

3. *Notification of Disclosure*: You agree (to the extent permitted by law and regulation) to inform us:

   (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph 2(c) above except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

   (b) upon becoming aware that Confidential Information has been disclosed in breach of this letter.

4. *Return of Copies*: If we so request in writing, you shall return all Confidential Information supplied to you by us and destroy or permanently erase (to the extent technically practicable) all copies of Confidential Information made by you and use all reasonable endeavours to ensure that anyone to whom you have supplied any Confidential Information destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy, or where the Confidential Information has been disclosed under paragraph 2(c) above.

5. *Continuing Obligations*: The obligations in this letter are continuing and, in particular, shall survive the termination of any discussions or negotiations between you and us. Notwithstanding the previous sentence, the obligations in this letter shall cease on the earlier of (a) the date on which you become a party to the Facility Agreement or (b) twelve months after

the date at which you have returned all Confidential Information supplied by us to you and destroyed or permanently erased (to the extent technically practicable) all copies of Confidential Information made by you (other than any such Confidential Information or copies which have been disclosed under paragraph 2 above (other than paragraph 2(a)) or which, pursuant to paragraph 4 above, are not required to be returned or destroyed.

6. *No Representation; Consequences of Breach, etc*: You acknowledge and agree that:

   (a) neither we nor any member of the Group nor any of our or their respective officers, employees or advisers (each a " **Relevant Person**") (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by us or any member of the Group or the assumptions on which it is based or (ii) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or any member of the Group or be otherwise liable to you or any other person in respect of the Confidential Information or any such information; and

   (b) we or members of the Group may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person or member of the Group may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

7. *Entire Agreement*: This letter constitutes the entire agreement between us in relation to your obligations regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

8. *No Waiver*: No failure or delay in exercising any right or remedy under this letter will operate as a waiver thereof nor will any single or partial exercise of any right or remedy preclude any further exercise thereof or the exercise of any other right or remedy under this letter.

9. *Amendments, etc*: The terms of this letter and your obligations under this letter may only be amended or modified by written agreement between us.

10. *Inside Information*: You acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and you undertake not to use any Confidential Information for any unlawful purpose.

11. *Nature of Undertakings*: The undertakings given by you under this letter are given to us and (without implying any fiduciary obligations on our part) are also given for the benefit of the Company and each other member of the Group.

12. *Third party rights*: Subject to this paragraph 12 and to paragraphs 6 and 9, a person who is not a party to this letter has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this letter.

(a) The Relevant Persons and each member of the Group may enjoy the benefit of the terms of paragraphs 6 and 9 subject to and in accordance with this paragraph 12 and the provisions of the Third Parties Act.

(b) Notwithstanding any provisions of this letter, the parties to this letter do not require the consent of any Relevant Person or any member of the Group to rescind or vary this letter at any time.

13. *Governing Law and Jurisdiction*:

(a) This letter (including the agreement constituted by your acknowledgement of its terms) and all non-contractual obligations arising from or connected with it are governed by and shall be construed in accordance with English law.

(b) The parties submit to the non-exclusive jurisdiction of the English courts.

14. *Definitions*: In this letter (including the acknowledgement set out below):

"**Confidential Information**" means all information relating to the Company, any Obligor, the Group, the Finance Documents and/or the Facilities which is provided to you in relation to the Finance Documents or Facilities by us or any of our affiliates or advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

(a) is or becomes public information other than as a direct or indirect result of any breach of this letter;

(b) is identified in writing at the time of delivery as non-confidential by us or our advisers; or

(c) is known by you before the date the information is disclosed to you by us or any of our affiliates or advisers or is lawfully obtained by you after that date, from a source which is, as far as you are aware, unconnected with the Group and which, in either case, as far as you are aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

"**Facility Agreement**" means the facility agreement entered into or to be entered into in relation to the Facilities.

"**Finance Documents**" means the documents defined in the Facility Agreement as Finance Documents.

"**Group**" means the Company, each of its holding companies and its subsidiaries and each of the subsidiaries of each of its holding companies for the time being (as each such term is defined in the Companies Act 2006).

"**Obligor**" means a borrower or a guarantor under the Facility Agreement.

"**Participant Group**" means you, each of your holding companies and subsidiaries and each subsidiary of each of your holding companies (as each such term is defined in the Companies Act 2006).

"**Permitted Purpose**" means considering and evaluating whether to enter into the Facilities.

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

For and on behalf of
[***Existing Bank***]

To: [***Existing Bank***]
The Company and each other member of the Group

We acknowledge and agree to the above:

_____

For and on behalf of
[***Potential Lender***]

SCHEDULE 10

EXISTING SECURITY

Company	Lender	Security	Total Principal Amount of Indebtedness Secured as of 30 September 2006 (millions of euro)
CEMEX Inc	Hampton	Land related with the credit	0.13
Mineral Resource Technologies, Inc.	Met-South, Inc.	Ash storage facility	0.08
Cementownia Rudniki, S.A.	Société Générale	Leased equipment	3.84
Beton Prêt De L'Est	Société Générale	Leased equipment	9.91
A Beton Viacolor Térkö Rt. / Danubiusbeton Dunántúl Kft.	Raiffeisen Bank	Mortgage	0.01
CEMEX, Latvia	Disko Leasing GmbH	Leased Equipment	0.07
Transbeton Lieferbeton	Raiffeisen Bank	Land related with the credit	3.35
Transportbeton Hütten GmbH & Co. KG	Dresdner Bank AG	Land related with the credit	0.07
Quarzsandwerk Wellmersdorf GmbH & Co. KG	Raiffesenbank	Land related with the credit	0.14
Wunder Kies GmbH & Co. KG	Kreissparkasse Schwarzenbek	Land related with the credit	0.55
Betonförderung Nordwest	Hanseatische Leasing	Leased equipment	0.07
CEMEX Co, UK	ING	Leased equipment	39.44
CEMEX Co, UK	Lloyds TSB	Leased equipment	5.13
TOTAL			62.79

Together with any Security over the assets of the Target Group as at the Acquisition of Target Date.

SCHEDULE 11

EXISTING NOTARISATIONS

Type of Agreement	Borrower/Guarantor	Maturity Date	Total Principal Amount of Indebtedness notarised as of 30 September 2006
Bilateral lines	CEMEX España, S.A.	April 2007	EUR 3,005,060.52
TOTAL			EUR 3,005,060.52

SCHEDULE 12

MATERIAL SUBSIDIARIES

1. CEMEX, Inc.
2. CEMEX Construction Materials LP
3. CEMEX UK Operations Limited
4. RMC France SAS
5. CEMEX Deutschland AG

SCHEDULE 13

EXISTING FINANCIAL INDEBTEDNESS

As of 30.09.06
Figures in millions of €*

BORROWER	INSTRUMENT	OUTSTANDING AMOUNT	FINAL MATURITY
CEMEX UK	Loan Notes	23.00	June 2005 - December 2009
	SUBTOTAL	**23.00**	
CEMEX, INC.	SBLC T.E. Bonds*	33.98	Dec 2006 - April 2025
	Other debt	10.37	Between 2006 - 2011
	SUBTOTAL	**44.35**	
CEMEX INVESTMENTS LIMITED	Long term debt with credit entities	57.08	Between 2006 - 2017
	Short term debt with credit entities	27.32	
	SUBTOTAL	**84.40**	
GESTIÓN FRANCAZAL ENTERPRISES SAS	Long term debt with credit entities	9.36	Between 2006 - 2013
	Short term debt with credit entities	9.35	
	Other short term debt	5.19	
	Other debt	0.11	
	SUBTOTAL	24.00	
PUERTO RICAN CEMENT COMPANY	Credit Line (US$25mm)	20.29	November 2010
	Credit Line (US$30mm)	23.66	August 2008
	SUBTOTAL	**43.95**	
OTHER COMPANIES	Credit Lines	18.84	
	SUBTOTAL	**18.84**	
	TOTAL DEBT	**238.54**	

Together with the Existing Target Debt.

* Stand by letters of credit over tax-exempt bonds. Maturities shown correspond to these bonds. SBLC renewed on an annual basis.

SCHEDULE 14

PROCEEDINGS PENDING OR THREATENED

1. Environmental Matters

United States

As of 30 November 2008, CEMEX, Inc. and its subsidiaries had accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately U.S.$42.6 million. The environmental matters relate to (i) the disposal of various materials, in accordance with past industry practice, which might be categorized as hazardous substances or wastes, and (ii) the cleanup of sites used or operated by CEMEX, Inc., including discontinued operations, regarding the disposal of hazardous substances or wastes, either individually or jointly with other parties. Most of the proceedings are in the preliminary stage, and a final resolution might take several years. For purposes of recording the provision, CEMEX, Inc. considers that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. Based on information available to date, CEMEX, Inc. does not believe it will be required to spend significant sums on these matters, in excess of the amounts previously recorded. The ultimate cost that might be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work, and negotiations with or litigation against potential sources of recovery have been completed.

CEMEX Construction Materials Florida, LLC f/k/a Rinker Materials of Florida, Inc. (" **CEMEX Florida**"), a subsidiary of CEMEX, Inc., holds one federal quarry permit and is the beneficiary of one of 10 other federal quarrying permits granted for the Lake Belt area in South Florida. The permit held by CEMEX Florida covers CEMEX Florida's SCL and FEC quarries. CEMEX Florida's Krome quarry is operated under one of the other federal quarry permits. The FEC quarry is the largest of CEMEX Floridas' quarries measured by volume of aggregates mined and sold. CEMEX Florida's Miami cement mill is located at the SCL quarry and is supplied by that quarry. A ruling was issued on 22 March 2006 by a judge of the U.S. District Court for the Southern District of Florida in connection with litigation brought by environmental groups concerning the manner in which the permits were granted. Although not named as a defendant, CEMEX Florida has intervened in the proceedings to protect its interests. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the relevant governmental agencies in connection with the issuance of the permits. The judge remanded the permits to the relevant governmental agencies for further review, which review the governmental agencies have indicated in a recent announcement should take until mid February 2009 to conclude. The judge also conducted further proceedings to determine the activities to be conducted during the remand period. In July 2007, the judge issued a ruling that halted certain quarrying operations at three non-CEMEX Florida quarries. The judge left in place CEMEX Florida's Lake Belt permits until the relevant government agencies complete their review. In a May 2008 ruling, the federal appellate court determined that the district court judge did not apply the proper standard of review to the permit issuance decision of the governmental agency, vacated the district court's prior order, and remanded the proceeding to the district court to apply the proper standard of review; this review remains pending before the district court judge. If the Lake Belt permits are ultimately set aside or quarrying operations under them restricted, CEMEX Florida will need to source aggregates, to the extent available, from other locations in Florida or import aggregates. This would likely affect profits from our Florida operations. Any adverse impacts on the Florida economy arising from the cessation or significant restriction of quarrying operations in the Lake Belt could also have a material adverse effect on our financial results.

Europe

In Great Britain, future expenditure on closed and current landfill sites has been assessed and quantified over the period in which the sites are considered to have the potential to cause environmental harm, generally consistent with the regulator view of up to 60 years from the date of closure. The assessed expenditure relates to the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure. The costs have been quantified on a net present value basis in the amount of approximately £122 million, and an accounting provision for this sum has been made at 31 December 2007.

In 2003, the European Union adopted a directive implementing the Kyoto Protocol on climate change and establishing a greenhouse gas emissions allowance trading scheme within the European Union. The directive requires Member States to impose binding caps on carbon dioxide emissions from installations involved in energy activities, the production and processing of ferrous metals, the mineral industry (including cement production) and the pulp, paper or board production business. Under this scheme, companies with operations in these sectors receive from the relevant Member States allowances that set limitations on the levels of greenhouse gas emissions from their installations. These allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that are not reaching their emissions objectives. Companies can also use credits issued from the use of the flexibility mechanisms under the Kyoto protocol to fulfill their European obligations. These flexibility mechanisms provide that credits (equivalent to allowances) can be obtained by companies for projects that reduce greenhouse gas emissions in emerging markets. These projects are referred to as Clean Development Mechanism ("**CDM**") or joint implementation projects depending on the countries where they take place. Failure to meet the emissions caps is subject to heavy penalties.

Companies can also use, up to a certain level, credits issued under the flexible mechanisms of the Kyoto protocol to fulfill their European obligations. Credits for Emission Reduction projects obtained under these mechanisms are recognized, up to a certain level, under the European emission trading scheme as allowances. To obtain these emission reduction credits, companies must comply with very specific and restrictive requirements from the United Nations Convention on Climate Change (UNFCC).

As required by directive, each of the Member States established a National Allocations Plan, or NAP, setting out the allowance allocations for each industrial facility for Phase I, from 2005 to 2007. Based on the NAPs established by the Member States of the European Union for the 2005 to 2007 period and our actual production, on a consolidated basis after trading allowances between our operations in countries with a deficit of allowances and our operations in countries with an excess of allowances, and after some external operations, Borrower's Subsidiaries had a surplus of allowances of approximately 1,050,054 tons of carbon dioxide in this Phase I.

For Phase II, comprising 2008 through 2012, however, there has been a reduction in the allowances granted by the Member States that have already approved their NAP, which may result in a consolidated deficit in our carbon dioxide allowances during the period. We believe we may be able to reduce the impact of any deficit by either reducing carbon dioxide emissions in our facilities or by

obtaining additional emission credits through the implementation of CDM projects. If we are not successful in implementing emission reductions in our facilities or obtaining credits from CDM projects, we may have to purchase a significant amount of emission credits in the market, because CEMEX has already sold a substantial amount of allowances for Phase II, the cost of which may have an impact on our operating results. As of 1 December 2008, the market value of carbon dioxide allowances for Phase II was approximately 15.45 € per ton. CEMEX is taking all the measures to minimize our exposure to this market while assuring the supply of our products to our clients.

The Spanish NAP has been finally approved by the Spanish Government, reflecting the conditions that were set forth by the European Commission. The allocations made to our installations allow us to foresee certain availability of allowances, nevertheless, there remains the uncertainty regarding the allocations that, against the reserve for new entrants, shall be requested for the new CEMEX cement plant in Andorra (Teruel), whose construction has been delayed, and that it is scheduled to start operating in 2010

On 29 May 2007, the Polish government filed an appeal before the Court of First Instance in Luxemburg regarding the European Commission's rejection of the initial version of the Polish NAP. The Court has denied Poland's request for a quick path verdict in the case, keeping the case in the regular proceeding path, therefore, the Polish government has started to prepare Polish internal rules on division of allowance at the level already accepted by the European Commission. Seven major Polish cement producers, representing 98% of Polish cement production (including CEMEX Polska), have also filed seven separate appeals before the Court of First Instance regarding the European Commission's rejection. On 29 September 2008 the Court of the First Instance issued an order rejecting CEMEX Polska's appeal without going into the merit of the case. As of 4 December 2008 the final version of the Polish NAP has not been cleared by the Commission; CEMEX has not determined the impact this may have on CEMEX's position in the country.

2. **Tax Matters**

Philippines

As of 30 November 2008, the Philippine Bureau of Internal Revenue (BIR), had assessed APO, Solid, IQAC, ALQC and CSPI, our operating subsidiaries in the Philippines, for deficiency taxes covering taxable years 1998-2005 amounting to a total of approximately 1,994 million Philippine Pesos (approximately U.S.$40.727 million as of 30 November 2008, based on an exchange rate of Philippine Pesos 48.96 to U.S.$1.00, which was the Philippine Peso/Dollar exchange rate on 30 November 2008 as published by the Bangko Sentral ng Pilipinas, the central bank of the Republic of the Philippines).

The majority of the tax assessments result primarily from the disallowance of APO's income tax holiday incentives for taxable years 1999 to 2001 (approximately Philippine Pesos 1,078 million or U.S.$22.1 million as of 30 November 2008, based on an exchange rate of Philippine Pesos 48.96 to U.S.$1.00). We have contested the BIR's assessment, arising from the disallowance of the ITH incentive, with the Court of Tax Appeals (CTA). The initial Division ruling of the CTA was unfavorable, but is subject to further appeal with the CTA as a whole. The assessment is now currently on appeal with the CTA En Banc. A motion was filed with the CTA, requesting the court to hold APO totally not liable for alleged income tax liabilities for all the years covered and to this end cancel and withdraw APO's deficiency income tax assessments for taxable years 1999, 2000 and 2001 on the basis of APO's availment of the tax amnesty described below. As of 30 November 2008, resolution on the aforementioned motion is still pending.

3. **CEMEX Venezuelan Nationalization**

In furtherance of Venezuela's announced policy to nationalize certain sectors of the economy, on 18 June 2008, the Nationalization Decree was promulgated, mandating that the cement production industry in Venezuela be reserved for the Government of Venezuela and ordering the conversion of foreign-owned cement companies, including CEMEX Venezuela, into state-controlled companies with Venezuela holding an equity interest of at least 60%. The Nationalization Decree provided for the formation of a transition committee to be integrated with the board of directors of the relevant cement company to guaranty the transfer of control over all activities of the relevant cement company to Venezuela by 31 December 2008. The Nationalization Decree further established a deadline of 17 August 2008 for the shareholders of foreign-owned cement companies, including CEMEX Venezuela, to reach an agreement with the Government of Venezuela on the compensation for the nationalization of their assets. The Nationalization Decree also provided that this deadline may be extended by mutual agreement of the Government of Venezuela and the relevant shareholder. The transition committee, which was to be coordinated by the Ministry of Basic Industries (MIBAN), was never formally instituted and MIBAN never acted in the process, but instead Petroleos de Venezuela (PDVSA) conducted all the conversations.

CEMEX Venezuela and the Government did not reach agreement by the August 17 deadline, and on August 18 the Expropriation Decree was issued by the President of Venezuela, with PDVSA appointed to conduct the expropriation proceedings. Although these proceedings had not yet commenced, PDVSA officials headed a group of PDVSA workers, with the support of the public force, to take over all the facilities of CEMEX Venezuela on August 17. Since no agreement has been reached with the Venezuelan Government as to the compensation to be paid, the Dutch companies that control CEMEX Venezuela filed an arbitration request before the International Center for the Settlement of Investment Disputes against the Government of Venezuela, which request has been registered and the tribunal is in the process of being formed.

As of 31 December 2007, CEMEX Venezuela, S.A.C.A. was the holding entity of several of CEMEX's investments in the region, including CEMEX's operations in the Dominican Republic and Panama, as well as CEMEX's minority investment in Trinidad. In the wake of statements by the Government of Venezuela about the nationalization of assets in Venezuela, in April 2008, CEMEX concluded the transfer of all material non-Venezuelan investments to CEMEX España for approximately U.S.$355 million plus U.S.$112 million of net debt, having distributed all accrued profits from the non-Venezuelan investments to the stockholders of CEMEX Venezuela amounting to approximately U.S.$132 million. At this time, the net impact or the outcome of the nationalization on CEMEX's consolidated financial results cannot be reasonably estimated. The approximate net assets of CEMEX's Venezuelan operations under Mexican FRS at 31 December 2007 were approximately Ps8,973 million. Since August 2008, CEMEX no longer consolidates the financial results of CEMEX Venezuela.

On 13 June 2008, the Venezuelan securities authority initiated an administrative proceeding against CEMEX Venezuela, claiming that the company did not sufficiently inform its shareholders and the securities authority in connection with the transfer of the non-Venezuelan assets described above. The Venezuelan authority determined that CEMEX Venezuela did not comply with its disclosure

obligations and imposed fines on the company, which we do not consider material, and requested the attorney general's office to review the case to determine if such non-disclosure also constituted criminal infringement.

4. **Other Legal Proceedings**

On 5 August 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia, claiming that it was liable along with the other members of the Asociación Colombiana de Productores de Concreto, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system of Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads in a manner which guarantees their service during the 20-year period for which they were originally designed, and estimate that the cost of such repair will be approximately U.S.$45 million. The lawsuit was filed within the context of a criminal investigation of two ASOCRETO officers and other individuals, alleging that the ready-mix concrete producers were liable for damages if the ASOCRETO officers were criminally responsible. The court completed the evidentiary stage, and on 17 August 2006 dismissed the charges against the members of ASOCRETO. The other defendants (one ex-director of the Distrital Institute of Development, the legal representative of the constructor and the legal representative of the contract auditor) were formally accused. The decision was appealed, and on 11 December 2006, the decision was reversed and the two ASOCRETO officers were formally accused as participants (determiners) in the execution of a state contract without fulfilling all legal requirements thereof. The first public hearing took place on 20 November 2007. In this hearing the judge dismissed an annulment petition filed by the ASOCRETO officers. The petition was based on the fact that the officers were formally accused of a different crime than the one they were being investigated for. This decision was appealed, but the decision was confirmed by the Superior Court of Bogota. On 21 January 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called El Tujuelo, as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required within a period of 10 days to deposit with the Court in cash CoP$337,800 million (approximately U.S.$195 million as of 4 June 2008, based on an exchange rate of CoP1730 to U.S.$1.00, which was the Colombian Peso/Dollar exchange rate on 4 June 2008, as published by the Banco de la República de Colombia, the central bank of Colombia), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. The measure does not affect the normal activity of the quarry. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.

On 5 August 2005, Cartel Damages Claims, SA, or CDC, filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG and other German cement companies. CDC is seeking €102 million in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002, which entities had assigned their claims

to CDC. CDC is a Belgian company established by two lawyers in the aftermath of the German cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office with the express purpose of purchasing potential damages claims from cement consumers and pursuing those claims against the cartel participants. In January 2006, another entity assigned alleged claims to CDC, and the amount of damages being sought by CDC increased to €113.5 million plus interest. On February 21 2007, the District Court of Düsseldorf decided to allow this lawsuit to proceed without going into the merits of this case by issuing an interlocutory judgment. All defendants appealed. The appeal hearing took place on 22 April 2008, and the appeal was dismissed on 14 May 2008. The lawsuit will proceed at the level of court of first instance. As of 30 September 2008 only one defendant has decided to file a complaint before the Federal High Court; this will delay the case from proceeding at the level of first instance to an extent we cannot assess today. In the meantime, CDC had acquired new assigners and announced an increase in the claim to €131 million. As of 30 November 2008, we had accrued liabilities regarding this matter for a total amount of approximately €20 million.

After an extended consultation period, in April 2006, the cities of Kaštela and Solin in Croatia published their respective Master (physical) Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to Dalmacijacement, our subsidiary in Croatia, by the Government of Croatia in September 2005. During the consultation period, Dalmacijacement submitted comments and suggestions to the Master Plans, but these were not taken into account or incorporated into the Master Plan by Kaštela and Solin. Most of these comments and suggestions were intended to protect and preserve the rights of Dalmacijacement´s mining concession granted by the Government of Croatia in September 2005. Immediately after publication of the Master Plans, Dalmacijacement filed a series of lawsuits and legal actions before the local and federal courts to protect its acquired rights under the mining concessions. The legal actions taken and filed by Dalmacijacement were as follows: (i) on 17 May 2006, a constitutional appeal before the constitutional court in Zagreb, seeking a declaration by the court concerning Dalmacijacement's constitutional claim for decrease and obstruction of rights earned by investment, and seeking prohibition of implementation of the Master Plans. This cases is currently under review by the court in Croatia, and it is expected that these proceedings will continue for several years before resolution; (ii) on 17 May 2006, a possessory action against the cities of Kaštela and Solin seeking the enactment of interim measures prohibiting implementation of the Master Plans and including a request to implead the Republic of Croatia into the proceeding on our side. The municipal court in Solin issued a first instance judgment dismissing our possessory action. We filed an appeal against that judgment. The appeal has been resolved by the Solin County Court, affirming the judgment and rendering it final. The Municipal Court in Kaštela has issued a first instance judgment dismissing our possessory action. We filed an appeal against said judgment, which has since been resolved by the Kaštela Country Court, affirming the judgment and rendering it final; (iii) on 17 May 2006, an administrative proceeding before the State Lawyer, seeking a declaration from the Government of Croatia confirming that Dalmacijacement acquired rights under the mining concessions. Dalmacijacement received State Lawyer's opinion which confirms the Dalmacijacement's acquired rights according to the previous decisions ("old concession"). The Administrative Court in Croatia has ruled in favor of Dalmacijacement, validating the legality of the mining concession granted to Dalmacijacement by the Government of Croatia. This decision is final. Currently it is difficult for Dalmacijacement to ascertain the approximate economic impact of these measures by Kaštela and Solin).

Club of Environmental Protection, a Latvian environmental protection organization (hereinafter the " **Applicant**"), has initiated a court administrative proceeding against the decision made by the Environment State Bureau (hereinafter the " **Defendant**") in order to amend the environmental pollution permit (the "**Permit**") for the Broceni Cement Plant in Latvia, owned by CEMEX SIA (the " **Disputed Decision**"). CEMEX SIA was invited to participate in the court proceedings as a third party, whose rights and legal interest may be infringed by the relevant administrative act. On 5 June 2008 the Court rendered its judgment, where it satisfied the Claimant's claim and revoked the Disputed Decision stating that it is illegal because Defendant failed to perform public inquiry in accordance with legal regulations. The judgment has been appealed by both the Defendant and CEMEX SIA before the Court of Appeal and the court will hear the case in 24 February 2009. The appellate procedure will not suspend the operation of the Permit which will remain valid throughout the court proceedings, hence CEMEX SIA is allowed to continue to perform its activities. The Permit subject to this proceeding was issued for the existing cement line, which will be fully substituted in the first half of 2009 by a new cement line currently under construction.

EXHIBIT 4.25.1

EXECUTION VERSION

SENIOR UNSECURED MATURITY LOAN "A" AGREEMENT

among

NEW SUNWARD HOLDING B.V.,
as Borrower

and

CEMEX, S.A.B. de C.V.,
as Guarantor

and

CEMEX MÉXICO, S.A. de C.V.,
as Guarantor

and

HSBC SECURITIES (USA) INC.,
as Sole Structuring Agent

and

HSBC SECURITIES (USA) INC.,
BANCO SANTANDER, S.A. and THE ROYAL BANK OF SCOTLAND PLC
as Joint Lead Arrangers and Joint Bookrunners

and

The Several Lenders Party Hereto,
as Lenders

and

ING CAPITAL LLC,
as Administrative Agent

Up to U.S.$525,000,000

Dated as of December 31, 2008

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SENIOR UNSECURED MATURITY LOAN "A" AGREEMENT

SENIOR UNSECURED MATURITY LOAN "A" AGREEMENT, dated as of December 31, 2008, among **NEW SUNWARD HOLDING B.V.**(the "Borrower"), a private company with limited liability formed under the laws of The Netherlands with its corporate seat in Amsterdam, The Netherlands, **CEMEX, S.A.B. de C.V.** (the "Parent"), a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States, **CEMEX MÉXICO, S.A. de C.V.** ("CEMEX Mexico" and together with the Parent, the "Guarantors"), a *sociedad anonima de capital variable* organized and existing pursuant to the laws of the United Mexican States, the several lenders party hereto, **HSBC SECURITIES (USA) INC.**, as sole structuring agent (in such capacity, together with its successors and assigns, if any, in such capacity, the "Structuring Agent"), **HSBC SECURITIES (USA) INC.**, **BANCO SANTANDER, S.A.** and **THE ROYAL BANK OF SCOTLAND PLC** as joint lead arrangers and joint bookrunners (the "Joint Lead Arrangers"), and **ING Capital LLC**, as administrative agent (in such capacity, together with its successors and assigns, if any, in such capacity, the "Administrative Agent").

RECITALS

WHEREAS, the Senior Unsecured Dutch Loan "A" Agreement, dated as of June 2, 2008, by and among the Borrower, each Guarantor, HSBC SECURITIES (USA) INC., as sole structuring agent, HSBC SECURITIES (USA) INC., BANCO SANTANDER, S.A. AND THE ROYAL BANK OF SCOTLAND PLC as joint lead arrangers and joint bookrunners, ING Capital LLC, as administrative agent and each lender party hereto, as such agreement may be amended, modified or supplemented from time to time (the "Dutch Loan "A" Agreement") permits the Borrower to convert its Dutch Loans outstanding thereunder into Loans outstanding under this Agreement, subject to the satisfaction or waiver of certain conditions to such conversion;

WHEREAS, the Dutch Loan "A" Agreement permits the Borrower to convert each Lender's Dutch Loan under the Dutch Loan "A" Agreement into a Loan pursuant to this Agreement and exchange its Dutch "A" Note for a Maturity "A" Note in the identical principal amount;

NOW, THEREFORE, each of the parties hereto hereby agrees as follows:

ARTICLE I
DEFINITIONS

1.01 Certain Definitions. As used in this Agreement, the following terms shall have the following meanings:

"Acquired Debt" means, with respect to any specified Person, Debt of any other Person existing at the time such Person becomes a Subsidiary of such specified Person or assumed in connection with the acquisition of assets from such Person.

"Acquired Subsidiary" means any Subsidiary acquired by the Parent or any other Subsidiary after the date hereof in an Acquisition, and any Subsidiaries of such Acquired Subsidiary on the date of such Acquisition.

"Acquiring Subsidiary" means any Subsidiary of the Parent or any one of its Subsidiaries solely for the purpose of participating as the acquiring party in any Acquisition, and any Subsidiaries of such Acquiring Subsidiary acquired in such Acquisition.

"Acquisition" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if upon the completion of such transaction or transactions, the Parent or any Subsidiary thereof has acquired an interest in assets comprising all or substantially all of an operating-unit, division, or line of business or in any Person who is deemed to be a Subsidiary under this Agreement and was not a Subsidiary prior thereto.

"Act" has the meaning specified in Section 13.16.

"Adjusted Consolidated Net Tangible Assets" means, with respect to the Parent, the total assets of the Parent and its Subsidiaries (less applicable depreciation, amortization and other valuation reserves), including any write-ups or restatements required under Applicable GAAP (other than with respect to items referred to in clause (ii) below), after deducting therefrom (i) all current liabilities of such Person and its Subsidiaries (excluding the current portion of long-term debt) and (ii) all goodwill, trade names, trademarks, licenses, concessions, patents, unamortized debt discount and expense and other intangibles, all as determined on a consolidated basis in accordance with Applicable GAAP.

"Administrative Agent" means ING Capital LLC, in its capacity as administrative agent for each of the Lenders, and its successors and assigns in such capacity.

"Administrative Agent's Payment Office" means the Administrative Agent's address for payments set forth on the signature pages hereof or such other address as the Administrative Agent may from time to time specify to the other parties hereto pursuant to the terms of this Agreement.

"Affected Lender" has the meaning specified in Section 3.06(a).

"Affiliate" means, in relation to any Person, a Subsidiary of that Person or a Holding Company of that Person or any other Subsidiary of that Holding Company.

"Agreement" means this Senior Unsecured Maturity Loan "A" Agreement, as the same may hereafter be amended, supplemented or otherwise modified from time to time.

"Applicable GAAP" means, with respect to any Person, Mexican FRS or other generally accepted accounting principles required to be applied to such Person in the jurisdiction of its incorporation or organization and used in preparing such Person's financial statements.

"Applicable Margin" means, at any date, 1%.

"Assignee" has the meaning specified in Section 13.06(b).

"Assignment and Assumption Agreement" means an assignment and assumption agreement in substantially the form of Exhibit C.

"Assignor" has the meaning specified in Section 13.06(b).

"Average Drawn Commitment" means, for any Calculation Period, the ratable share of the Average Outstanding Loans for any Lender under this Agreement as of the end of each day during such fiscal quarter, divided by the number of days in such fiscal quarter.

"Average Outstanding Loans" means, for any fiscal quarter, the sum of the aggregate principal amount of Loans outstanding under this Agreement as of the end of each day during each such fiscal quarter, divided by the number of days in such fiscal quarter.

"Base Rate" means, for any day, the higher of (a) the Prime Rate or (b) the Federal Funds Rate plus 1/2% per annum, in each case as in effect for such day. Any change in the Prime Rate announced by the Reference Banks shall take effect at the opening of business on the day specified in the public announcement of such change.

"Base Rate Loan" means any Loan made or maintained at a rate of interest calculated with reference to the Base Rate.

"Borrower" has the meaning specified in the preamble hereto.

"Business Day" means any day other than a Saturday or Sunday or other day on which commercial banks in New York City, New York, Amsterdam, The Netherlands, Madrid, Spain or Mexico City, Mexico are authorized or required by law to close.

"Calculation Date" means with respect to each Calculation Period, the earlier of the date on which the Borrower delivers, or is required to deliver its financial statements with respect to the corresponding fiscal quarter in accordance with Sections 7.01(a) and 7.01(b); provided, however, that the Calculation Date for the final Facility Fee Payment Date shall be the date on which the financial statements for the most recently completed fiscal quarter for which financial statements are required to have been delivered pursuant to Sections 7.01(a) and 7.01(b) have been delivered or were required to be delivered.

"Calculation Period" means each fiscal quarter; provided, however, the first Calculation Period shall commence on the Conversion Date and the last Calculation Period shall end on the last Facility Fee Payment Date.

"Capital Expenditure" means, for any period, (a) the additions to property, plant and equipment and other capital expenditures of the Parent and its Subsidiaries that are (or should be) set forth in a consolidated statement of cash flows of the Parent for such period prepared in accordance with Mexican FRS and (b) any Capital Leases incurred by the Parent and its Subsidiaries during such period.

"Capital Lease" means, as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under Applicable GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with Applicable GAAP.

"Capital Stock" means any and all shares, interests, participations or other equivalents (however designed) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

"CEMEX Mexico" has the meaning specified in the preamble hereto.

"Code" means the Internal Revenue Code of 1986, as amended.

"Competitor" means any Person engaged in the business of producing, distributing, and marketing cement, ready-mix concrete, aggregates, and related building materials.

"Confidential Information" means information that a Credit Party furnishes to the Administrative Agent, the Structuring Agent, the Joint Lead Arrangers or any Lender in a writing designated as confidential, but does not include any such information that is or becomes generally available to the public or that is or becomes available to the Administrative Agent, the Structuring Agent, the Joint Lead Arrangers or such Lender from a source other than a Credit Party that is not, to the best of the Administrative Agent's, the Structuring Agent's, the Joint Lead Arrangers' or such Lender's knowledge, acting in violation of a confidentiality agreement with the Credit Party or any other Person.

"Consenting Lender" means any Lender who is a signatory to the Dutch Loan "A" Amendment.

"Consolidated Fixed Charges" means, for any period, the sum (without duplication) of (a) Consolidated Interest Expense for such period and (b) to the extent not included in (a) above, payments during such period in respect of the financing costs of financial derivatives in the form of equity swaps.

"Consolidated Fixed Charge Coverage Ratio" means, for any Reference Period, the ratio of (a) EBITDA for such period to (b) Consolidated Fixed Charges for such period.

"Consolidated Interest Expense" means, for any period, the total gross interest expense of the Parent and its consolidated Subsidiaries allocable to such period in accordance with Applicable GAAP.

"Consolidated Net Debt" means, at any date, the sum (without duplication) of (a) the aggregate amount of all Debt of the Parent and its Subsidiaries at such date, plus (b) to the extent not included in Debt, the aggregate amount of all derivative financing in the form of equity swaps outstanding at such date (except to the extent such exposure is cash collateralized) minus (c) all Temporary Investments (for the avoidance of doubt, net of any amounts pledged as cash collateral) of the Parent and its Subsidiaries at such date.

"Consolidated Net Debt / EBITDA Ratio" means, on any date of determination, the ratio of (a) Consolidated Net Debt on such date to (b) EBITDA for the one year period ending on such date (subject to adjustment as set forth in the definition of "EBITDA").

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any indenture, mortgage, deed of trust, loan agreement or other agreement to which such Person is a party or by which it or any of its property or assets is bound.

"Conversion Date" has the meaning set forth in Article IV.

"Conversion Notice" shall have the meaning given such term in the Dutch Loan "A" Agreement.

"Credit Party" means the Borrower or a Guarantor.

"Credit Parties" means the Borrower and the Guarantors.

"Debt" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee under Capital Leases, (v) all Debt of others secured by a Lien on any asset of such Person, up to the value of such asset, as recorded in such Person's most recent balance sheet, (vi) all

obligations of such Person with respect to product invoices incurred in connection with export financing, (vii) all obligations of such Person under repurchase agreements for the stock issued by such Person or another Person, and (viii) all Guarantees of such Person in respect of any of the foregoing. For the avoidance of doubt, Debt does not include Derivatives or Qualified Receivables Transactions. With respect to the Parent and its Subsidiaries, the aggregate amount of Debt outstanding shall be adjusted by the Value of Debt Currency Derivatives solely for the purposes of calculating the Consolidated Net Debt / EBITDA Ratio. If the Value of Debt Currency Derivatives is a positive mark-to-market valuation for the Parent and its Subsidiaries, then Debt shall decrease accordingly, and if the Value of Debt Currency Derivatives is a negative mark-to-market valuation for the Parent and its Subsidiaries, then Debt shall increase by the absolute value thereof.

"Debt Currency Derivatives" means derivatives of the Parent and its Subsidiaries related to currency entered into for the purposes of hedging exposures under outstanding Debt of the Parent and its Subsidiaries, including but not limited to cross-currency swaps and currency forwards.

"Default" means any condition, event or circumstance which, with the giving of notice or lapse of time or both, would, unless cured or waived, become an Event of Default.

"Derivatives" means any type of derivative obligations, including but not limited to equity forwards, capital hedges, cross-currency swaps, currency forwards, interest rate swaps and swaptions.

"Discontinued EBITDA" means, for any period, the sum for Discontinued Operations of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Mexican FRS consistently applied for such period.

"Discontinued Operations" means operations that are accounted for as discontinued operations pursuant to Mexican FRS for which the Disposition of such assets has not yet occurred.

"Discontinue Option" has the meaning set forth under the definition of "EBITDA" in this Section 1.01.

"Disposition" means, with respect to any property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof.

"Dollars," "$" and "U.S.$" each means the lawful currency of the United States.

"Dutch "A" Note" has the meaning set forth in the Dutch Loan "A" Agreement.

"Dutch Financial Supervision Act" means the Dutch Financial Supervision Act (*Wet op het financieel toezicht*) and the rules and regulations promulgated thereunder.

"Dutch Loan "A" Agreement" has the meaning set forth in the Recitals.

"Dutch Loan "A" Amendment" means the First Amendment to the Dutch Loan "A" Agreement, dated as of December 19, 2008, by and among New Sunward Holding B.V., as Borrower, Cemex S.A.B. de C.V. and Cemex Mexico, S.A. de C.V., as Guarantors, ING Capital LLC, as Administrative Agent and the several Lenders party thereto.

"Dutch Loan Closing Date" means June 2, 2008.

"Dutch Loans" means the Loans as defined in and existing pursuant to the Dutch Loan "A" Agreement.

"EBITDA" means, for any period, the sum for the Parent and its Subsidiaries, determined on a consolidated basis of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Applicable GAAP, subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA for any applicable period pursuant to any determination of the Consolidated Net Debt / EBITDA Ratio (but not the Consolidated Fixed Charge Coverage Ratio): (A) (i) if at any time during such applicable period the Parent or any of its Subsidiaries shall have made any Material Disposition, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such applicable period (but when the Material Disposition is by way of lease, income received by the Parent or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such applicable period the Parent or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving *pro forma* effect thereto (including the incurrence or assumption of any Debt) as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any Person that subsequently shall have become a Subsidiary or was merged or consolidated with the Parent or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Disposition or Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Parent or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Disposition or Acquisition had occurred on the first day of such applicable period; and (B) all U.S.$/Euro EBITDA for each applicable period ending on or after December 31, 2008 will be recalculated and converted into Mexican pesos by applying the Ending Exchange Rate to each month's U.S.$/Euro EBITDA amount (such recalculated EBITDA being the "Recalculated EBITDA"), provided that, the Required Lenders shall have the option,

with respect to any Reference Period ending after December 31, 2009, to discontinue the incorporation of Recalculated EBITDA into the Consolidated Net Debt / EBITDA Ratio (the "Discontinue Option"). The Required Lenders may exercise the Discontinue Option upon notice to the Administrative Agent, who shall, acting upon the instructions of the Required Lenders, notify the Parent of such exercise in writing (the " Notice of Discontinuance") at least thirty (30) days prior to the end of such Reference Period. Subject to the foregoing notice requirements, such Discontinue Option shall be effective for each Reference Period ending after the date of such Notice of Discontinuance to the Parent as set forth herein.

"Ending Exchange Rate" means the exchange rate at the end of a Reference Period for U.S.$ or Euros, as the case may be, corresponding to any U.S.$/Euro EBITDA, in each case as used by the Parent and its auditors in preparation of the Parent's financial statements in accordance with Mexican FRS.

"Environmental Action" means any audit procedure, action, suit, demand, demand letter, claim, notice of non-compliance or violation, notice of liability or potential liability, investigation, proceeding, consent order or consent agreement relating in any way to any Environmental Law, Environmental Permit or Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment, including (a) by any Governmental Authority for enforcement, cleanup, removal, response, remedial or other actions or damages and (b) by any Governmental Authority or any third party for damages, contribution, indemnification, cost recovery, compensation or injunctive relief.

"Environmental Law" means any federal, state, local or foreign statute, law, ordinance, rule, regulation, technical standard (*norma técnica or norma oficial Mexicana*), code, order, judgment, decree or judicial agency interpretation, policy or guidance relating to pollution or protection of the environment, health, safety or natural resources, including those relating to the use, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials.

"Environmental Permit" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"Euro" means the single currency of Participating Member States.

"Event of Default" has the meaning set forth in Section 10.01.

"Excess Payment" has the meaning set forth in Section 3.09(a).

"Excluded Taxes" means, (i) in the case of each Lender the Administrative Agent, and any Tax Related Persons, such taxes (including income taxes or franchise taxes) as are imposed on or measured by its net income or capital by the jurisdiction (or any political subdivision thereof) under the laws of which it is organized or maintains a

Lending Office or its principal office or performs its functions as Administrative Agent or as are imposed on such Lender or the Administrative Agent or any of their Tax Related Persons (as the case may be) as a result of a present or former connection between the Lender, the Administrative Agent, or such Tax Related Person and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from the Lender or such Administrative Agent having executed, delivered or performed its obligations or received a payment under, or enforced, the Transaction Documents), (ii) United States backup withholding taxes imposed because of payee underreporting, and (iii) any withholding tax that is imposed on amounts payable to a Lender at the time such Lender becomes a party hereto, or that is imposed due to such Lender's failure or inability to comply with Section 3.01(f); provided, however, that Excluded Taxes shall not include (A) any Mexican withholding tax imposed on payments made by any Guarantor to the Administrative Agent, any Lender, or any Tax Related Persons under this Agreement or any other Transaction Documents, or (B) in the case of an assignment, transfer, grant of a participation, or designation of a new Lending Office by any Lender, withholding taxes solely to the extent that such withholding taxes are (1) not in excess of the amounts the Borrower and Guarantors were required to pay or increase with respect to such Lender pursuant to Section 3.01 immediately prior to such an event, or (2) imposed as a result of a change in applicable law or regulation occurring after such event.

"Facility Fee" has the meaning set forth in Section 2.03.

"Facility Fee Payment Date" has the meaning set forth in Section 2.03.

"Federal Funds Rate" means for any relevant day, the overnight Federal funds rate as published for such day in the Federal Reserve Statistical Release H.15 (519) or any successor publication, or, if such rate is not published for any day, the rate for such day will be the rate set forth in the daily statistical release designated as the Composite 3:30 p.m. Quotation for U.S. Government Securities, or any successor publication, published by the Federal Reserve Bank of New York (including any such successor, the "Composite 3:30 p.m. Quotation" for such day under the caption "Federal Funds Effective Rate"). If on any relevant day the appropriate rate for such previous day is not yet published in either H.15 (519) or the Composite 3:30 p.m. Quotations, the rate for such day will be the arithmetic mean as determined by the Administrative Agent of the rates for the last transaction in overnight Federal funds arranged prior to 9:00 a.m. (New York City time) on that day by each of three leading brokers of recognized standing of Federal funds transactions in New York City selected by the Administrative Agent.

"Federal Reserve Board" means the Board of Governors of the Federal Reserve System of the United States.

"Fitch" means Fitch Ratings, Ltd. and any successor thereto.

"Governmental Authority" means any branch of power or government or any state, department or other political subdivision thereof, or any governmental body, agency, authority (including any central bank or taxing or environmental authority), any entity or instrumentality (including any court or tribunal) exercising executive, legislative, judicial, regulatory, administrative or investigative functions of or pertaining to government.

"Guarantee" means, as applied to any Debt of another Person, (i) a guarantee, direct or indirect, in any manner, of any part or all of such Debt and (ii) any direct or indirect obligation, contingent or otherwise, of a Person guaranteeing or having the effect of guaranteeing the Debt of any other Person in any manner (and "Guaranteed" and "Guaranteeing" shall have meanings that correspond to the foregoing).

"Guarantor" has the meaning specified in the preamble hereto.

"Hazardous Materials" means (a) radioactive materials, asbestos-containing materials, polychlorinated biphenyls, radon gas and (b) any other chemicals, materials or substances designated, classified or regulated as hazardous or toxic or as a pollutant or contaminant under any applicable Environmental Law.

"Holding Company" means, in relation to a company or a corporation, any other company or corporation in respect of which it is a Subsidiary.

"IFRS" means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

"Incur" means, with respect to any Debt of any Person, to create, issue, incur (by conversion, exchange or otherwise), assume, Guarantee or otherwise become liable in respect of such Debt or the recording, as required pursuant to Applicable GAAP or otherwise, of any such Debt on the balance sheet of such Person. Debt otherwise Incurred by a Person before it becomes a Subsidiary of the Parent shall be deemed to be Incurred at the time at which such Person becomes a Subsidiary of the Parent. "Incurrence," "Incurred," "Incurrable" and "Incurring" shall have meanings that correspond to the foregoing.

"Indebtedness" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee under Capital Leases, (v) all Debt of others secured by a Lien on any asset of such Person, up to the value of such asset, as recorded in such Person's most recent balance sheet, (vi) all obligations of such Person with respect to product invoices incurred in connection with export financing and (vii) all obligations of such Person under repurchase agreements for the stock issued by such Person or another Person.

"Indemnified Party" has the meaning specified in Section 13.05.

"Indemnified Taxes" means Taxes other than Excluded Taxes arising from any payment made hereunder or under any other Transaction Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Transaction Document.

"Interest Payment Date" means the last day of each Interest Period for the Loans, the date of repayment of the Loans and the Maturity Date. If an Interest Payment Date falls on a date that is not a Business Day, such Interest Payment Date shall be deemed to be the next preceding Business Day.

"Interest Period" means the period (i) commencing on (a) the Conversion Date or (b) in the case of the continuation of LIBOR Loans for a further Interest Period, on the last day of the immediately preceding Interest Period and (ii) ending three (3) or six (6) months thereafter (or any other period that is shorter than three (3) months if requested by the Borrower and approved by all of the Lenders) as the Borrower may elect in the Conversion Notice or the applicable Notice of Continuation; provided that the foregoing provisions are subject to the following:

(1) if any Interest Period would otherwise end on a day that is not a LIBOR Business Day, such Interest Period shall be extended to the next succeeding LIBOR Business Day unless the result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the immediately preceding LIBOR Business Day;

(2) any Interest Period that begins on the last LIBOR 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 LIBOR Business Day of the relevant calendar month;

(3) if the Borrower shall fail to give notice as provided above, the Borrower shall be deemed to have selected to continue the Loans for a period ending one (1) month thereafter; and

(4) any Interest Period in respect of the Loans that would otherwise extend beyond the Maturity Date shall end on the Maturity Date.

"Investment" by the Parent or its Subsidiaries means, any direct or indirect capital contribution (by means of any transfer of cash) to another Person which is not the Parent or its Subsidiaries, not constituting an Acquisition.

"Joint Lead Arrangers" has the meaning specified in the preamble hereto.

"Judgment Currency" has the meaning specified in Section 13.14(c).

"Lender" means any person that holds a Loan, each Assignee that becomes a Lender pursuant to Section 13.06(b), and each of their respective successors or assigns.

"Lending Office" means, with respect to any Lender, (a) the office or offices of such Lender specified as its " Lending Office" or "Lending Offices" in Schedule 2.01(b) or (b) such other office or offices of such Lender as it may designate as its Lending Office by notice to the Borrower and the Administrative Agent.

"LIBOR" means, applicable to any Interest Period, the rate for deposits in Dollars for a period equal to such Interest Period quoted on the second LIBOR Business Day prior to the first day of such Interest Period, as such rate appears on Reuters Page LIBOR01 as of 11:00 a.m. (London time) on such date as determined by the Administrative Agent and notified to the Lenders and the Borrower on such second prior LIBOR Business Day. If LIBOR cannot be determined based on the Reuters Page LIBOR01, LIBOR means the arithmetic mean (rounded upwards to the nearest 1/100%) of the rates per annum, as supplied to the Administrative Agent, quoted by the Reference Banks to prime banks in the London interbank market for deposits in Dollars at approximately 11:00 a.m. (London time) two (2) LIBOR Business Days prior to the first day of such Interest Period in an amount approximately equal to the principal amount of the Loans to which such Interest Period is to apply and for a period of time comparable to such Interest Period.

"LIBOR Business Day" means any Business Day on which commercial banks are open in London for the transaction of international business, including dealings in Dollar deposits in the international interbank markets.

"LIBOR Loan" means any Loan made or maintained at a rate of interest calculated with reference to LIBOR.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. The Parent or any Subsidiary of the Parent shall be deemed to own, subject to a Lien, any asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capital Lease or other title retention lease relating to such asset, or any account receivable transferred by it with recourse (including any such transfer subject to a holdback or similar arrangement that effectively imposes the risk of collectability on the transferor).

"Litigation" means any pending or threatened action, suit, investigation, litigation or proceeding, including any Environmental Action, affecting the Parent or any of its Subsidiaries before any court, Governmental Authority or arbitrator that (a) would be reasonably likely to have a Material Adverse Effect or (b) purports to affect the legality, validity or enforceability of any Transaction Document or the consummation of the transactions contemplated thereby.

"Loan" has the meaning set forth in Section 2.01(a).

"Material Acquisition" means any (a) acquisition of property or series of related acquisitions of property that constitutes assets comprising all or substantially all of an operating unit, division or line of business or (b) acquisition of or other investment in the Capital Stock of any Subsidiary or any Person which becomes a Subsidiary or is merged or consolidated with the Parent or any of its Subsidiaries, in each case, which involves the payment of consideration by the Parent and its Subsidiaries in excess of U.S.$25,000,000 (or the equivalent in other currencies).

"Material Adverse Effect" means a material adverse effect on (a) the business, condition (financial or otherwise), operations, performance, properties or prospects of the Credit Parties taken as a whole, (b) the validity or enforceability of this Agreement or any of the Maturity "A" Notes or the rights and remedies of the Administrative Agent or any Lender under this Agreement or any of the Maturity "A" Notes or (c) the ability of any Credit Party to perform its Obligations under this Agreement, the Maturity "A" Notes, the Conversion Notice, any certificates, waivers, or any other agreement delivered pursuant to this Agreement.

"Material Debt" means Debt (other than the Loans) of the Parent and/or one or more of its Subsidiaries, arising in one or more related or unrelated transactions, in an aggregate principal amount outstanding exceeding U.S.$50,000,000 (or the equivalent thereof in other currencies).

"Material Disposition" means any Disposition of property or series of related Dispositions of property that yields gross proceeds to the Parent or any of its Subsidiaries in excess of U.S.$25,000,000 (or the equivalent in other currencies).

"Material Subsidiary" means, at any date, (a) each Subsidiary of the Parent (if any) (i) the assets of which, together with those of its Subsidiaries, on a consolidated basis, without duplication, constitute 5% or more of the consolidated assets of the Parent and its Subsidiaries as of the end of the then most recently ended fiscal quarter for which quarterly financial statements have been prepared or (ii) the operating profit of which, together with that of its Subsidiaries, on a consolidated basis, without duplication, constitutes 5% or more of the consolidated operating profit of the Parent and its Subsidiaries for the then most recently ended fiscal quarter for which quarterly financial statements have been prepared and (b) each Guarantor.

"Maturity "A" Notes" has the meaning set forth in Section 2.01(a).

"Maturity Date" means the earlier of (a) June 30, 2011 or (b) the date on which all outstanding principal, accrued and unpaid interest with respect to the Loans are paid in full.

"Mexican FRS" means, Mexican Financial Reporting Standards (*Normas de Información Financiera*) as in effect from time to time and consistent with those used in the preparation of the most recent audited financial statements referred to in Section 7.01; provided, however, that for purposes of Section 8.01, Mexican FRS means Mexican Financial Reporting Standards as in effect on December 31, 2008. In the event that any change in Mexican FRS shall occur, or the Borrower shall decide to or be required to change to IFRS, and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, then the Credit Parties and the Administrative Agent agree to enter into negotiations in order to amend such provisions of this Agreement so as to equitably reflect such change in Mexican FRS with the desired result that the criteria for evaluating the Parent's financial condition shall be the same after such change as if such change had not been made. Until such time as such an amendment shall have been executed and delivered by the Credit Parties, the Administrative Agent and the Required Lenders, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such change in Mexican FRS had not occurred.

"Mexico" means the United Mexican States.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Notice of Continuation" means a notice substantially in the form of Exhibit B attached hereto and made a part hereof.

"Notice of Default" has the meaning specified in Section 11.05.

"Notice of Discontinuance" has the meaning set forth under the definition of "EBITDA" in this Section 1.01.

"Obligations" means, (a) with respect to the Borrower, all of its obligations and liabilities hereunder, including the Loans, to the Lenders, the Structuring Agent, the Joint Lead Arrangers and the Administrative Agent now or in the future existing under or in connection with the Transaction Documents, whether direct or indirect, absolute or contingent, due or to become due, and (b) with respect to each Guarantor, all of its indebtedness including the Loans hereunder, obligations and liabilities to the Lenders, the Structuring Agent, the Joint Lead Arrangers and the Administrative Agent now or in the future existing under or in connection with the Transaction Documents, in each case whether direct or indirect, absolute or contingent, due or to become due.

"Ordinary Course Loans" means a loan or advance: (i) made by the Parent or any of its Subsidiaries to a supplier, vendor, customer or other similar counterparty; (ii) which is due and payable not more than eighteen (18) months after being made (and where the Debt being Incurred to fund such loan or advance has a weighted average life to maturity that is greater than such loan or advance); (iii) made on terms and under circumstances consistent with past practices of the Parent or such Subsidiary; and (iv) the aggregate principal amount of which, when added to all other such loans and advances, does not exceed at any time U.S.$75,000,000 (or the equivalent in other currencies).

"Other Taxes" means any present or future stamp or documentary taxes which arise from any payment made hereunder and which are imposed, levied, collected or withheld by any Governmental Authority.

"Parent" has the meaning specified in the preamble hereto.

"Participant" has the meaning specified in Section 13.06(d).

"Participating Member State" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with the legislation of the European Union relating to Economic and Monetary Union.

"Permitted Debt" means, any Debt:

(a) the net proceeds of which are applied to repay, prepay or discharge the Loans or other Debt existing as at the date of such Incurrence and associated costs and expenses, so long as either: (i) the weighted average life to maturity of such new Debt is not less than the remaining weighted average life to maturity of the Debt being repaid, prepaid or otherwise discharged and the proceeds of such new Debt are applied towards such repayment, prepayment or other discharge within fifteen (15) days of such Incurrence; or (ii) such new Debt is incurred under a liquidity facility or facilities in an aggregate principal amount not exceeding U.S.$600,000,000 outstanding at any time, provided that the proceeds of such new Debt are used to repay, prepay or otherwise discharge Debt outstanding on the Conversion Date (including any such Debt that has been refinanced) within fifteen (15) days of the Incurrence of such new Debt;

(b) the net proceeds of which are applied to pay obligations of the Parent and/or its Subsidiaries arising under written agreements existing on the Conversion Date, excluding obligations in respect of Capital Expenditures, Restricted Payments and Investments;

(c) the net proceeds of which are applied for Capital Expenditures (i)(A) made from January 1, 2009 until December 31, 2009 in an aggregate amount per annum not to exceed U.S.$60,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing and (B) U.S.$40,000,000 (or the equivalent in other currencies) in all other cases; and (ii)(A) made from January 1, 2010 until December 31, 2010 and from January 1, 2011 until the Maturity Date, in each case in an aggregate amount per annum not to exceed U.S.$40,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing and (B) U.S.$60,000,000 (or the equivalent in other currencies) in all other cases; provided that any Debt Incurred pursuant to this clause has a weighted average life to maturity that is greater than the remaining weighted average life to maturity of the Debt under this Agreement;

(d) the net proceeds of which are applied to satisfy obligations of the Parent or any of its Subsidiaries arising in the ordinary course of business of such Person, excluding obligations in respect of (i) Capital Expenditures, (ii) Restricted Payments, (iii) Acquisitions, (iv) Investments, and (v) loans and advances made or to be made by such Person, other than Ordinary Course Loans;

(e) owed to the Parent or any of its consolidated Subsidiaries;

(f) which has become Debt solely due to a change in Mexican FRS;

(g) to the extent resulting from the closing of, or funding under, a facilities agreement with CEMEX Espana, S.A. as Borrower, CEMEX Australia Holdings Pty Limited and CEMEX, Inc. as Original Guarantors, Banco Santander, S.A. and The Royal Bank of Scotland Plc as Documentation Agents, and The Royal Bank of Scotland Plc as Facility Agent, in an aggregate amount of up to U.S.$2,000,000,000 (or the equivalent thereof in other currencies) so long as the net proceeds of which are applied to repay, prepay or discharge existing bilateral debt; or

(h) any Guarantee Incurred by the Parent or any of its Subsidiaries for any of the Debt referred to in paragraphs (a) to (g) above.

"Permitted Liens" has the meaning specified in Section 8.02.

"Person" means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture or other business entity or Governmental Authority, whether or not having a separate legal personality.

"Prime Rate" means the average of the rate of interest publicly announced by each of the Reference Banks from time to time as its Prime Rate in New York City, the Prime Rate to change as and when such designated rate changes. The Prime Rate is not intended to be the lowest rate of interest charged by the Administrative Agent or any Lender in connection with extensions of credit to debtors of any class, or generally.

"Process Agent" has the meaning specified in Section 13.12(a).

"Professional Market Party" means a professional market party (*professionele marktpartij*) within the meaning of the Dutch Financial Supervision Act.

"Qualified Receivables Transaction" means a sale, transfer, or securitization of receivables and related assets by the Parent or its Subsidiaries, including a sale at a discount, provided that (i) such receivables have been sold, transferred or otherwise conveyed, directly or indirectly, by the originator thereof in a manner that satisfies the

requirements for a sale, transfer or other conveyance under the laws and regulations of the jurisdiction in which such originator is organized; (ii) at the time of the sale, transfer or securitization of receivables is put in place, the receivables are derecognized from the balance sheet of the Parent or its Subsidiary in accordance with the generally accepted accounting principles applicable to such Person in effect as at the date of such sale, transfer or securitization; and (iii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or securitization is carried out on a non-recourse basis or on a basis where recovery is limited to the collection of receivables.

"Rating Agencies" means Moody's, S&P, and Fitch or if any of such Persons cease to perform credit ratings or other applicable services, such nationally recognized statistical rating organization the Administrative Agent may select.

"Recalculated EBITDA" has the meaning set forth under the definition of "EBITDA" in this Section 1.01.

"Reference Banks" shall mean three banks in the London interbank market, initially Citibank NA, HSBC Bank plc, and ING Bank NV.

"Reference Period" means any period of four consecutive fiscal quarters.

"Regulation T, U, or X" means Regulation T, U, or X, respectively, of the Board of Governors of the Federal Reserve Board as from time to time in effect and any successor to all or a portion thereof.

"Required Lenders" means, at any time, Lenders holding more than 50% of the aggregate principal amount of the outstanding Loans.

"Requirement of Law" means, as to any Person, any law, ordinance, rule, regulation or requirement of any Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Responsible Officer" of any Person means the Chief Financial Officer, the Corporate Planning and Finance Director, the Finance Director, the Comptroller of such Person or, in the case of the Borrower, any two directors or managing directors of the Borrower or any attorney-in-fact.

"Restricted Payment" means any cash dividend or other cash distribution with respect to any Capital Stock of the Parent, or any cash payment, including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Capital Stock, or on account of any return of capital to the Parent's stockholders.

"Reuters Page LIBOR01" means the display designated as "*LIBOR01*" on Reuters 3000 Xtra (or any successor service) or such other page as may replace Page LIBOR01

on Reuters 3000 Xtra or any successor service or such other service or services as may be nominated by the British Bankers' Association for the purpose of displaying London interbank offered rates for Dollar deposits.

"Solvent" means, with respect to any Person, that such Person (a) owns and will own assets the fair saleable value of which are (i) greater than the total amount of its debts and liabilities, subordinated, contingent or otherwise; and (ii) greater than the amount that will be required to pay the probable liabilities of its then existing debts, as such debts become absolute and matured and considering all financing alternatives and potential asset sales reasonably available to it; (b) has capital that is not unreasonably small in relation to its business as presently conducted and as proposed to be conducted following the Conversion Date; (c) does not intend to incur and does not believe that it will incur debts beyond its ability to pay such debts as they become due; and (d) is not, or is not deemed to be, in general default of its obligations pursuant to the Mexican *Ley de Concursos Mercantiles*. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability. For the purposes of this definition " fair saleable value" means the aggregate amount of net consideration (giving effect to reasonable and customary costs of sale and taxes) that could be expected to be realized if the aggregate assets of the applicable entity are sold with reasonable promptness in an arm's length transaction under present conditions for the sale of assets of comparable business enterprises.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. and any successor thereto.

"Structuring Agent" has the meaning specified in the preamble hereto.

"Subsidiary" means with respect to any Person, any corporation, partnership, joint venture, limited liability company, trust, estate or other entity of which (or in which) more than 50% of (a) in the case of a corporation, the issued and outstanding Capital Stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time Capital Stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency not in the control of such Person), (b) in the case of a limited liability company, partnership or joint venture, the interest in the capital or profits of such limited liability company, partnership or joint venture or (c) in the case of a trust or estate, the beneficial interest in such trust or estate, is at the time directly or indirectly owned or controlled by (X) such Person, (Y) such Person and one or more of its other Subsidiaries or (Z) one or more of such Person's other Subsidiaries.

"Substitute Lender" means a commercial bank or other financial institution, acceptable to the Parent, the Lenders and the Administrative Agent, each in its sole discretion, and approved by the Structuring Agent (including such a bank or financial institution that is already a Lender hereunder), which assumes all or a portion of the Loan of a Lender pursuant to the terms of this Agreement.

"Successor" has the meaning specified in Section 8.03(a).

"Tax Related Person" means any Person whose income is realized through, or determined by reference to, the Administrative Agent or a Lender; provided that no Lender shall be deemed a Tax Related Person of the Administrative Agent, and the Administrative Agent shall not be deemed a Tax Related Person of any Lender.

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

"Temporary Investments" means, at any date, all amounts that would, in conformity with Applicable GAAP consistently applied, be set forth opposite the caption "cash and cash equivalent" ("*efectivo y equivalentes de efectivo*") or "temporary investments" ("*inversiones temporales*") on a consolidated balance sheet of the Parent at such date.

"Tender Offer" means any offer made by the Parent or any of its Subsidiaries to acquire at least 50.1% of the issued and outstanding shares of a target company or a controlling interest in such target company.

"Transaction Documents" means a collective reference to this Agreement, the Maturity "A" Notes, any Assignment and Assumption Agreement, the Conversion Notice and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto.

"United States" and "U.S." means the United States of America, including the States and the District of Columbia, but excluding its territories and possessions.

"U.S.$/Euro EBITDA" means any EBITDA of a Subsidiary of the Parent for a particular Reference Period which is generated in U.S.$ or Euros.

"U.S. Government Securities" means any security issued or guaranteed as to principal or interest by the United States, or by a Person controlled or supervised by and acting as an instrumentality of the government of the United States pursuant to authority granted by the Congress of the United States, in each case provided such security is rated "AAA" or the equivalent by each of the Rating Agencies.

"Value of Debt Currency Derivatives" means, on any given date, the aggregate mark-to-market value of Debt Currency Derivatives, expressed as a positive number (if, on a mark-to-market basis, such aggregate amount reflects a net amount owed to the Parent and its Subsidiaries) or as a negative number (if, on a mark-to-market basis, such aggregate amount reflects a net amount owed by the Parent and its Subsidiaries). For the avoidance of doubt, Value of Debt Currency Derivatives is net of any amounts pledged as cash collateral.

1.02 Other Definitional Provisions.

(a) The terms "including" and "include" are not limiting and mean "including but not limited to" and "include but are not limited to."

(b) The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, and Article, Section, paragraph, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(c) The meanings given to terms defined herein are equally applicable to both the singular and plural forms of such terms.

(d) In this Agreement, in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each means "to but excluding". Periods of days referred to in this Agreement shall be counted in calendar days unless Business Days or LIBOR Business Days are expressly prescribed.

(e) The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

1.03 Accounting Terms and Determinations.

(a) All accounting and financing terms not specifically defined herein shall be construed in accordance with Mexican FRS or, if the context shall require, Applicable GAAP.

(b) Calculations with respect to the Consolidated Net Debt / EBITDA Ratio and the Adjusted Consolidated Net Tangible Assets and the defined terms used in such calculations, when made in relation to dates other than the last day of a fiscal quarter, shall be made by the Borrower acting in good faith by reference to (i) the most recently available financial statements of the Borrower and its Subsidiaries (including, to the extent available, unaudited monthly financial information) as of such date and (ii) events, conditions and circumstances occurring or existing subsequent to such financial statements.

ARTICLE II
THE LOAN FACILITIES

2.01 Loans.

(a) Loans. Subject to the terms and conditions set forth herein, on the Conversion Date, each Lender severally agrees to convert its Dutch Loan under the Dutch Loan "A" Agreement existing on the date hereof to a loan hereunder (each a " Loan" and together the "Loans"). The principal amount of each Lender's Loan hereunder shall be equal to the principal amount of its Dutch Loan as of the Conversion Date and shall be set forth on Schedule 2.01(a). Each Lender's Loan shall be evidenced by a duly executed note in favor of such Lender in the form of Exhibit A attached hereto (each, a "Maturity "A" Note" and, collectively, the "Maturity "A" Notes").

(b) Repayment. The principal amount of the Loans, together with any accrued and unpaid interest, shall be due and payable in full, and the Borrower hereby agrees to pay such amount in full, on the Maturity Date.

(c) Prepayment. The Loans may be repaid in whole or in part without premium or penalty; provided that (i) the Loans may be prepaid only upon five (5) Business Days' prior written notice to the Administrative Agent, and (ii) partial prepayments shall be in minimum principal amounts of U.S.$10,000,000. All such prepayments shall be accompanied by the payment of all accrued interest thereon together with, if such prepayment is made on any date other than a scheduled Interest Payment Date, any funding losses as provided in Section 3.03.

(d) Payments. Each payment of principal with respect to the Loans shall be paid to the Administrative Agent for the ratable benefit of each Lender. No payment with respect to the Loans may be reborrowed.

(e) Continuation. All Loans shall be subject to the terms of the definition of "Interest Period" set forth in Section 1.01. The Loans initially shall have the Interest Period specified in the Conversion Notice. No later than 10:00 a.m. (New York City time) on the third Business Day prior to the end of any Interest Period for the Loans, the Borrower shall deliver to the Administrative Agent a Notice of Continuation (or telephone notice promptly confirmed in writing) of the Interest Period to be effective for the Loans immediately after the then current Interest Period; provided, however, that if the Borrower fails to specify the subsequent Interest Period by the deadline specified above, the Borrower shall be deemed to have requested that such Interest Period be three (3) months. Each Notice of Continuation shall be irrevocable. Promptly after receipt of a Notice of Continuation under this Section 2.01(e), the Administrative Agent shall notify each Lender by telecopy or other similar form of transmission of the proposed continuation.

2.02 Interest.

(a) Loans. Subject to Section 2.02(c), the Loans shall bear interest at a rate per annum equal to LIBOR plus the Applicable Margin.

(b) Interest Deferral. The Borrower may not defer interest payments on the Loans.

(c) Default Interest. If any principal of, or interest on, the Loans or any fee or other amount payable by any Credit Party with respect to the Loans is not paid when due, whether at stated maturity, upon acceleration, or otherwise, such overdue amount shall bear interest from the date of such Event of Default, after as well as before judgment, to the day of actual receipt of such sum by the Administrative Agent at a rate per annum equal to 2% plus the rate applicable to the Loans as provided above.

So long as the Event of Default continues, the default interest rate shall be recalculated on the same basis at intervals of such duration as the Administrative Agent may select, provided that the amount of unpaid interest at the above rate accruing during the preceding period (or such longer period as may be the shortest period permitted by applicable law for the capitalization of interest) shall be added to the amount in respect of which such Person is in default.

(d) Payment of Interest. Accrued interest on the Loans shall be payable in arrears on each Interest Payment Date; provided that in the event of any repayment or prepayment of the Loans, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment.

(e) Computation. All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Base Rate at times when the Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Base Rate or LIBOR rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

2.03 Fees.

(a) Calculation. A facility fee shall accrue and be payable in arrears to each Consenting Lender for each Calculation Period in an amount equal to the percentage per annum determined in accordance with the table below (the " Facility Fee"), and shall be applied to such Lender's Average Drawn Commitments for such Calculation Period and will accrue on, and be calculated based on, the number of days elapsed in such Calculation Period. The Facility Fee for each Calculation Period will be as set forth below determined in accordance with the Consolidated Net Debt / EBITDA Ratio calculated based on the financial statements delivered, or required to be delivered, on the applicable Calculation Date:

Consolidated Net Debt / EBITDA Ratio	Facility Fee
Greater than 4.50 to 1	2.00%
Less than or equal to 4.50 to 1, but greater than 4.00 to 1	1.25%
Less than or equal to 4.00 to 1, but greater than 3.75 to 1	0.75%
Less than or equal to 3.75 to 1, but greater than 3.50 to 1	0.5%
Less than or equal to 3.50 to 1	0%

(b) Payment of Fees. The Facility Fee shall be payable within five Business Days after the Calculation Date applicable to each relevant Calculation Period (the "Facility Fee Payment Date"); provided that, in respect of any Calculation Period in which the Loans are repaid or prepaid in full, the Facility Fee Payment Date in respect of such Calculation Period shall be deemed to occur on the date of such repayment or prepayment. Notwithstanding the above, no Facility Fee shall be payable in respect of any Calculation Period in which an acceleration of any Loan occurs or any fiscal quarter thereafter.

ARTICLE III
TAXES, PAYMENT PROVISIONS

3.01 Taxes.

(a) Any and all payments by any Credit Party to any Lender, the Joint Lead Arrangers or the Administrative Agent under this Agreement and the other Transaction Documents shall be made free and clear of, and without deduction or withholding for or on account of, any Indemnified Taxes. In addition, Borrower shall promptly pay all Other Taxes.

(b) Except as otherwise provided in Section 3.01(c), the Credit Parties jointly and severally agree to indemnify and hold harmless each Lender and the Administrative Agent for the full amount of Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) paid by or assessed against any Lender or the Administrative Agent, as the case may be, and any penalties, interest, additions to tax, and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority, except to the extent that such penalties, interest, additions to tax or expenses

are incurred solely as a result of any gross negligence or willful misconduct of such Lender, or Administrative Agent, as the case may be. Payment under this indemnification shall be made within thirty (30) days after the date any Lender or the Administrative Agent makes written demand therefor, setting forth in reasonable detail the basis and calculation of such amounts (such written demand shall be presumed correct, absent significant error).

(c) If any Credit Party shall be required by law or regulation to deduct or withhold any Indemnified Taxes or Other Taxes from or in respect of any sum payable hereunder to any Lender or the Administrative Agent, then:

(i) the sum payable shall be increased as necessary so that after making all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable under this Section 3.01(c)) such Lender or the Administrative Agent receives an amount equal to the sum it would have received had no such deductions or withholdings been made;

(ii) such Credit Party shall make such deductions and withholdings; and

(iii) such Credit Party shall pay the full amount deducted or withheld to the relevant taxing authority or other authority in accordance with applicable law.

(d) Within thirty (30) days after the date of any payment by a Credit Party of Indemnified Taxes or Other Taxes, such Credit Party shall furnish to the Administrative Agent the original or a certified copy of a receipt evidencing payment thereof or other evidence of payment reasonably satisfactory to the Administrative Agent.

(e) If any Credit Party is required to pay additional amounts to the Administrative Agent or any Lender pursuant to Section 3.01(c), other than amounts related to the withholding of Mexican tax at the rate applicable to interest payments received by foreign financial institutions registered with the Secretaría de Hacienda y Crédito Público as a Foreign Financial Institution for the purposes of Article 195, Section I of the Mexican Income Tax law, then the Administrative Agent or such Lender, as the case may be, shall, upon reasonable request by the Borrower or the Guarantors, use reasonable efforts (consistent with legal and regulatory restrictions) to change the jurisdiction of its Lending Office, issuing office or office for receipt of payments by the Borrower and Guarantors hereunder, as the case may be, so as to eliminate or reduce the obligation of the Borrower or the Guarantor, as the case may be, to pay any such additional amounts which may thereafter accrue or to indemnify the Administrative Agent or such Lender in the future, if such change in the reasonable judgment of the Administrative Agent or such Lender is not otherwise disadvantageous to such Lender. No Credit Party shall be required to pay or increase any amounts payable pursuant to Section 3.01 following any assignment or grant of a participation by any Lender, except to the extent (i) not in excess of the amounts the Borrower and Guarantors were required

to pay or increase with respect to such Lender immediately prior to such an event, or (ii) increases in such amounts result from a change in applicable law or regulation occurring after such event.

(f) Each Lender and the Administrative Agent shall, from time to time at the request of the Borrower or the Administrative Agent (as the case may be), promptly furnish to the Borrower and the Administrative Agent (as the case may be), such forms, documents or other information (which shall be accurate and complete) as may be reasonably required to establish any available exemption from, or reduction in the amount of, applicable Taxes; provided, however, that none of any Lender or the Administrative Agent shall be obliged to disclose information regarding its tax affairs or computations to the Borrower in connection with this paragraph (f), it being understood that the identity of any Person shall not be considered for these purposes as information regarding its tax affairs or computations. Each of the Borrower and the Administrative Agent shall be entitled to rely on the accuracy of any such forms, documents or other information furnished to it by any Person and shall have no obligation to make any additional payment or indemnify any Person for any Taxes, interest or penalties that would not have become payable by such Person had such documentation been accurate.

(g) If the Administrative Agent or any Lender receives a refund or credit in respect of Indemnified Taxes as to which it has been indemnified by any Credit Party pursuant to Section 3.01(b), it shall notify the Credit Party of the amount of such refund or credit and shall return to the Credit Party such refund or the benefit of such credit; provided, however, that (A) the Administrative Agent or such Lender, as the case may be, shall not be obligated to make any effort to obtain such refund or credit or to provide any Credit Party with any information on or justification for the arrangement of its tax affairs or otherwise disclose to the Credit Party or any other Person any information that it considers to be proprietary or confidential, and (B) the Credit Party, upon the request of the Administrative Agent or such Lender, as the case may be, shall return the amount of such refund or the benefit of such credit to the Administrative Agent or such Lender, as the case may be, if the Administrative Agent or such Lender, as the case may be, is required to repay the amount of such refund or the benefit of such credit to the relevant authorities within six (6) years of the date the Credit Party is paid such amount by the Administrative Agent or such Lender, as the case may be.

(h) If requested by any Lender that is a resident of the United States for U.S. federal income tax purposes, the Credit Parties will perform an analysis as to whether the Borrower constitutes a passive foreign investment company within the meaning of Section 1297 of the Code and will take into account reasonable comments from such Lender with respect to such analysis. The Lender will have sole discretion to decide whether to make a "QEF election" (as described in Section 1293 of the Code) with respect to its interest in the Loans. For the avoidance of doubt, if based on such analysis the Lender decides to make a QEF election, the Credit Parties will provide the information necessary for making such election, as described in this Section 3.01(h). The Credit Parties will (i) maintain adequate books and records to allow any Lender that

would be subject to Section 1291 of the Code with respect to its interest in the Loans to make a proper QEF election and (ii) will further provide annual information statements and any other information to any such Lender if such information is necessary for purposes of making the QEF election or complying with the ongoing requirements associated with such election.

(i) The agreements in this Section 3.01 shall survive the termination of this Agreement and the payment of the Borrower's Obligations.

3.02 General Provisions as to Payments.

(a) All payments to be made by any Credit Party shall be made without set-off, counterclaim or other defense. Except as otherwise expressly provided herein, all payments by the Borrower shall be made to the Administrative Agent for the account of the Lenders at the Administrative Agent's Payment Office, and shall be made in Dollars and in immediately available funds, no later than 2:30 p.m. (New York City time) on the dates specified herein. The Administrative Agent will promptly distribute to each Lender its applicable share as expressly provided herein of each payment in like funds as received. Any payment received by the Administrative Agent later than 2:30 p.m. (New York City time) shall be deemed to have been received on the following Business Day and any applicable interest or fee shall continue to accrue until such following Business Day.

(b) Except and to the extent otherwise specifically provided herein, whenever any payment to be made hereunder is due on a day which is not a Business Day, the date for payment thereof shall be extended to the immediately following Business Day and, if interest is stated to be payable in respect thereof, interest shall continue to accrue to such immediately following Business Day.

(c) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Lenders hereunder that the Borrower will not make such payment in full, the Administrative Agent may assume that the Borrower has made such payment in full to the Administrative Agent on such date and the Administrative Agent may (but shall not be so required), in reliance upon such assumption, cause to be distributed to the Lenders on such due date an amount equal to the amount then due to the Lenders. If and to the extent that the Borrower shall not have made such payment, each applicable Lender shall repay to the Administrative Agent forthwith on demand such amount distributed to such Lender together with accrued interest thereon, for each day from the date such amount is distributed to such Lender until the date such Lender repays such amount to the Administrative Agent, at the Federal Funds Rate; provided, however, that if any amount remains unpaid by any Lender for more than five (5) Business Days after the Administrative Agent has made a demand for such amount, such Lender shall, commencing on the day next following such fifth Business Day, pay interest to the Administrative Agent at a rate per annum equal to the Federal Funds Rate plus 1%, and, provided further, that if any such amount remains

unpaid by any Lender for more than ten (10) Business Days, such Lender shall, commencing on the day next following such tenth Business Day, pay interest to the Administrative Agent at a rate per annum equal to the Federal Funds Rate plus 2.00%.

3.03 Funding Losses. If the Borrower makes any payment of principal with respect to the Loans on any day other than the Interest Payment Date applicable thereto, or if the Borrower fails to prepay the Loans after notice has been given pursuant to Section 2.01(c), the Borrower shall reimburse each Lender, as applicable, within fifteen (15) days after demand for any resulting loss or expense incurred by it, provided such Lender shall have delivered to the Borrower a certificate setting forth in reasonable detail the computations for the amount of such loss or expense, which certificate shall be conclusive in the absence of manifest error.

3.04 Basis for Determining Interest Rate Inadequate or Unfair. If on or prior to the first day of any Interest Period for the Loans:

(a) the Administrative Agent determines that by reason of circumstances affecting the London interbank market, reasonably adequate means do not exist for ascertaining LIBOR applicable to such Interest Period or that deposits in Dollars (in the applicable amounts) are not being offered in the London interbank market for such Interest Period, or

(b) the Required Lenders advise the Administrative Agent that LIBOR as determined by the Administrative Agent will not adequately and fairly reflect the cost to such Lenders of making or maintaining their respective Loan for such Interest Period, then the Administrative Agent shall forthwith give notice thereof to the Borrower and the Lenders. In the event of any such determination or advice, until the Administrative Agent shall have notified the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, any request by the Borrower for a Loan of the affected amount or Interest Period, or a conversion to or continuation of a Loan of the affected amount or Interest Period shall be deemed rescinded and such request shall instead be considered a request for a Base Rate Loan. Each determination by the Administrative Agent hereunder shall be conclusive absent manifest error.

3.05 Capital Adequacy. If any Lender has determined, after the date hereof, that the adoption or the becoming effective of, or any change in, or any change by any Governmental Authority, central bank, or comparable agency charged with the interpretation or administration thereof in the interpretation or administration of, any applicable law, rule, or regulation regarding capital adequacy, or compliance by such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank, or comparable agency, has or would have the effect of increasing such Lender's cost of making or maintaining such Lender's Loan or reducing the rate of return on such Lender's capital or assets as a consequence of its obligations hereunder to a level below that which such Lender could have achieved but for such adoption, effectiveness, change, or compliance (taking into consideration

such Lender's policies with respect to capital adequacy), then, upon notice from such Lender to the Borrower, the Borrower shall be obligated to pay to such Lender such additional amount or amounts as will compensate such Lender for such increased cost or reduction in amount received. Each determination by any such Lender of amounts owing under this Section 3.05 shall, absent manifest error, be conclusive and binding on the parties hereto. The relevant Lender will, upon request, provide a certificate in reasonable detail as to the amount of such increased cost or reduction in amount received and method of calculation.

Upon any Lender's making a claim for compensation under this Section 3.05, (i) such Lender shall use commercially reasonable efforts (consistent with legal and regulatory restrictions) to change the jurisdiction of its lending office or assign its rights and obligations hereunder to another of its offices, branches or affiliates so as to eliminate or reduce any such additional payment by the Borrower which may thereafter accrue, if such change is not otherwise disadvantageous to such Lender and (ii) the Borrower has the right to replace such Lender in accordance with Section 3.08.

3.06 Illegality.

(a) Notwithstanding any other provision herein, if the adoption of or any change in any Requirement of Law or in the interpretation or application thereof occurring after the Conversion Date shall make it unlawful for any Lender to make or maintain any Loan as contemplated by this Agreement, then such Lender shall be an "Affected Lender" and by written notice to the Borrower and to the Administrative Agent:

(i) such Lender may require that all outstanding Loans made by it be converted to Base Rate Loans, in which event all such Loans shall be automatically converted to Base Rate Loans as of the effective date of such notice as provided in paragraph (b) below, and

(ii) if it is also illegal for the Affected Lender to make Base Rate Loans, such Lender may declare all amounts owed to it by the Borrower to the extent of such illegality to be due and payable; provided, however, that the Borrower has the right, with the consent of the Administrative Agent, to find an additional Lender to purchase the Affected Lenders' rights and obligations.

In the event any Lender shall exercise its rights under (i) above with respect to any Loans, all payments and prepayments of principal that would otherwise have been applied to repay the converted Loans of such Lender shall instead be applied to repay the Base Rate Loans resulting from the conversion of such Loans.

(b) For purposes of this Section 3.06, a notice to the Borrower by any Lender shall be effective as to each such Loan, if lawful, on the last day of the Interest Period currently applicable to such loan; in all other cases such notice shall be effective on the date of receipt by the Borrower.

3.07 Requirements of Law. If, after the date hereof, the adoption of or any change in any Requirement of Law or in the interpretation or application thereof applicable to any Lender, or compliance by any Lender with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority, in each case made subsequent to the Conversion Date (or, if later, the date on which such Lender becomes a Lender):

(a) shall impose, modify, or hold applicable any reserve, special deposit, compulsory loan, or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans, or other extensions of credit by, or any other acquisition of funds by, any office of such Lender that is not otherwise included in the determination of the LIBOR hereunder; or

(b) shall impose on such Lender any other condition (excluding any tax of any kind whatsoever);

and the result of any of the foregoing is to increase the cost to such Lender, by an amount that such Lender reasonably deems to be material, of making, converting into, continuing, or maintaining Loans or to reduce any amount receivable hereunder in respect thereof, then, in any such case, upon notice delivered to the Borrower from such Lender, through the Administrative Agent, in accordance herewith, the Borrower shall be obligated to promptly pay such Lender, upon its demand, any additional amounts necessary to compensate such Lender for such increased cost or reduced amount receivable. If any Lender becomes entitled to claim any additional amounts pursuant to this Section 3.07, it shall provide notice thereof to the Borrower, promptly upon occurrence of such event, but in any case within three (3) days from the date of such event, through the Administrative Agent, certifying (x) that one of the events described in paragraph (a) and (b) has occurred and describing in reasonable detail the nature of such event, (y) as to the increased cost or reduced amount resulting from such event and (z) as to the additional amount demanded by such Lender and a reasonably detailed explanation of the calculation thereof. Such a certificate as to any additional amounts payable pursuant to this subsection submitted by such Lender, through the Administrative Agent, to the Borrower shall be conclusive and binding on the parties hereto in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder. If any Lender becomes aware of a proposed change in any Requirement of Law that would entitle it to claim any additional amounts pursuant to this Section 3.07 it shall promptly, upon the Lender becoming aware of such event, provide notice to the Borrower through the Administrative Agent.

3.08 Substitute Lenders. If any Lender has demanded compensation pursuant to Sections 3.05 or 3.07 or has exercised its rights pursuant to Section 3.06(a)(ii), and such Lender does not waive its right to future additional compensation pursuant to

Section 3.05 or 3.07, the Borrower shall have the right (i) to replace such Lender with a Substitute Lender or Substitute Lenders that shall succeed to the rights of such Lender under this Agreement upon execution of an Assignment and Assumption Agreement and payment by the Borrower of the related processing fee of U.S.$3,500 to the Administrative Agent or (ii) to remove such Lender; provided, however, that such Lender shall not be replaced or removed hereunder until such Lender has been repaid in full all amounts owed to it pursuant to this Agreement (including Sections 3.03 and 3.05) and the other Transaction Documents unless any such amount is being contested by the Borrower in good faith.

3.09 Sharing of Payments in connection with the Loans, Etc .

(a) If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the Obligations owing to it any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) in excess of its share of payments on account of the Obligations obtained by all the Lenders (an "Excess Payment"), such Lender shall forthwith (i) notify the Administrative Agent of such fact, and (ii) purchase from the other Lenders such participations in such Obligations owing to them as shall be necessary to cause such purchasing Lender to share the excess payment ratably with each of them; provided, however, that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender, such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's share (according to the proportion of (A) the amount of such paying Lender's required repayment to (B) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of demonstrable error) of participations purchased pursuant to this Section 3.09 and will in each case notify the Lenders following any such purchases.

(b) If any Lender shall commence any action or proceeding in any court to enforce its rights hereunder after consultation with the other Lenders and, as a result thereof or in connection therewith, it shall receive any Excess Payment, then such Lender shall not be required to share any portion of such excess payment with any Lender which has the legal right to, but does not, join in any such action or proceeding or commence and diligently prosecute a separate action or proceeding to enforce its rights in another court.

(c) The Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section 3.09 may exercise all its rights of set-off with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation.

ARTICLE IV
CONDITIONS PRECEDENT

The obligations of the Lenders under this Agreement are subject to the satisfaction or waiver of the following conditions precedent (the date on which all such conditions precedent are satisfied or waived being the "Conversion Date"):

4.01 Loan Documents. The Administrative Agent shall have received, on or before the Conversion Date, counterparts of each of the following documents duly executed and delivered by each party thereto, and in full force and effect and reasonably satisfactory to the Administrative Agent:

(a) this Agreement;

(b) Maturity "A" Notes executed by the Borrower for the account of each Lender; and

(c) the Conversion Notice.

4.02 Opinions of Borrower's and each Guarantor's Counsel. The Administrative Agent shall have received:

(a) the opinion of special New York counsel to the Credit Parties substantially in the form of Exhibit D hereto;

(b) the opinion of in-house counsel to the Credit Parties substantially in the form of Exhibit E hereto; and

(c) the opinion of special Dutch counsel to the Credit Parties substantially in the form of Exhibit F hereto.

4.03 Representations and Warranties. The representations and warranties of each Credit Party contained in this Agreement and each other Transaction Document shall be true on and as of the Conversion Date, and each Credit Party shall have provided a certificate to such effect to the Administrative Agent.

4.04 Conditions to Conversion. All of the conditions precedent to conversion set forth in Section 4.03 of the Dutch Loan "A" Agreement have been satisfied or waived by the Lenders.

4.05 Officer's Certificate. The Borrower shall deliver an Officer's Certificate stating that all conditions precedent set forth in this Article IV have been fully satisfied or waived.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF THE BORROWER

The Borrower represents and warrants that:

5.01 Corporate Existence and Power.

(a) The Borrower is a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation and has all requisite corporate power and authority (including all governmental licenses, permits and other approvals except for such licenses, permits and approvals the absence of which will not have a Material Adverse Effect) to own its assets and carry on its business as now conducted and as proposed to be conducted.

(b) All of the outstanding stock of the Borrower has been validly issued and is fully paid and non-assessable.

(c) The Borrower is in full compliance with the applicable provisions of the Dutch Financial Supervision Act.

5.02 Power and Authority; Enforceable Obligations.

(a) The execution, delivery and performance by the Borrower of each Transaction Document to which it is or will be a party, and the consummation of the transactions contemplated hereby and thereby (including the conversion of the Dutch Loans), are within the Borrower's corporate powers and have been duly authorized by all necessary corporate action.

(b) This Agreement and the other Transaction Documents to which the Borrower is a party have been duly executed and delivered by the Borrower and constitute the legal, valid and binding obligations of the Borrower enforceable in accordance with their respective terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equity principles.

5.03 Compliance with Law and Other Instruments. The execution, delivery of and performance under this Agreement and each of the other Transaction Documents to which the Borrower is a party and the consummation of the transactions herein or therein contemplated, and compliance with the terms and provisions hereof and thereof, do not and will not (a) conflict with, or result in a breach or violation of, or constitute a default under, or result in the creation or imposition of any Lien upon the assets of the Borrower pursuant to, any Contractual Obligation of the Borrower or (b) result in any violation of the *statuten* of the Borrower or any provision of any Requirement of Law applicable to the Borrower.

5.04 Consents/Approvals. No order, permission, consent, approval, license, authorization, registration or validation of, or notice to or filing with, or exemption by, any Governmental Authority or third party is required to authorize, or is required in connection with, the execution, delivery and performance by the Borrower of this Agreement and the other Transaction Documents to which the Borrower is a party or the taking of any action contemplated hereby or by any other Transaction Document.

5.05 No Immunity. The Borrower and the Parent are subject to civil and commercial law with respect to its obligations under this Agreement and each other Transaction Document to which it is a party and the execution, delivery and performance of this Agreement or any such other Transaction Document by the Borrower and the Parent constitute private and commercial acts rather than public or governmental acts. Under the laws of Mexico or The Netherlands (as applicable) none of the Credit Parties nor any of their property has any immunity from jurisdiction of any court or any legal process (whether through service or notice, attachment prior to judgment or attachment in aid of execution).

5.06 Governmental Regulations.

(a) The Borrower is not, and is not controlled by, an "investment company" within the meaning of the United States Investment Company Act of 1940, as amended or

(b) The Borrower is not subject to regulation under the Public Utility Holding Company Act of 2005, as amended ("PUHCA") that would have the effect of preventing the execution and performance, or the enforceability, of its obligations under each Transaction Document to which it is a party.

5.07 Direct Obligations; Pari Passu.

(a) This Agreement constitutes a direct, unconditional unsubordinated and unsecured obligation of the Borrower.

(b) The Loans, when made, will constitute direct, unconditional unsubordinated and unsecured obligations of the Borrower.

5.08 No Recordation Necessary.

(a) This Agreement and the Maturity "A" Notes are in proper legal form under the law of Mexico for the enforcement thereof against the Borrower under the laws of Mexico or, as the case may be, The Netherlands. To ensure the legality, validity, enforceability or admissibility in evidence of this Agreement and each other Transaction Document in Mexico or, as the case may be, The Netherlands, it is not necessary that this Agreement or any other Transaction Document be filed or recorded with any Governmental Authority in Mexico or any Governmental Authority in The Netherlands or that any stamp or similar tax be paid on or in respect of this Agreement or any other

document to be furnished under this Agreement, unless such stamp or similar taxes have been paid by the Borrower; provided, however, that in the event any legal proceedings are brought in the courts of Mexico, an official Spanish translation of the documents required in such proceedings, including this Agreement, would have to be approved by the court after the defendant is given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents.

(b) It is not necessary (i) in order for the Administrative Agent or any Lender to enforce any rights or remedies under the Transaction Documents or (ii) solely by reason of the execution, delivery and performance of this Agreement by the Administrative Agent or any Lender, that the Administrative Agent or such Lender be licensed or qualified with any Mexican Governmental Authority or be entitled to carry on business in Mexico.

5.09 Choice of Law; Submission to Jurisdiction and Waiver of Sovereign Immunity. In any action or proceeding involving the Borrower arising out of or relating to this Agreement in any Mexican or Dutch court or tribunal, any Lender, the Structuring Agent, the Joint Lead Arrangers and the Administrative Agent would be entitled to the recognition and effectiveness of the choice of law, submission to jurisdiction and waiver of sovereign immunity provisions of Sections 13.10, 13.11 and 13.13.

5.10 Margin Regulations. No part of the proceeds of the Loans hereunder will be used, directly or indirectly, for the purpose of purchasing or carrying any "margin stock" within the meaning of Regulation U, except in compliance with Regulation U. If requested by any Lender or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form U-1 referred to in said Regulation U. No indebtedness being reduced or retired out of the proceeds of the Loan hereunder was or will be incurred for the purpose of purchasing or carrying any margin stock within the meaning of Regulation U except in compliance with Regulation U or any "margin security" within the meaning of Regulation T, except in compliance with Regulation T. Neither the execution and delivery hereof by the Borrower, nor the performance by it of any of the transactions contemplated by this Agreement (including, without limitation, the direct or indirect use of the proceeds of the Loans) will violate or result in a violation of the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or regulations issued pursuant thereto, or Regulation T, U, or X.

5.11 Solvency. The Borrower is and, after giving effect to the Loans and each of the transactions contemplated by this Agreement and the Transaction Documents, will be, Solvent.

5.12 Dutch Works Council Act. The Borrower has not established, is not in the process of establishing nor has it received a request to establish a works council in accordance with the provisions of the Dutch Works Council Act (*Wet op de ondernemingsraden*).

ARTICLE VI
REPRESENTATIONS AND WARRANTIES OF THE GUARANTORS

Each of the Guarantors separately represents and warrants that:

6.01 Corporate Existence and Power.

(a) Such Guarantor is a corporation (*sociedad anónima de capital variable* or *sociedad anónima bursátil de capital variable*) duly incorporated and validly existing under the laws of Mexico and has all requisite corporate power and authority (including all governmental licenses, permits and other approvals except for such licenses, permits and approvals the absence of which will not have a Material Adverse Effect) to own its assets and carry on its business as now conducted and as proposed to be conducted.

(b) All of the outstanding stock of such Guarantor has been validly issued and is fully paid and non-assessable.

6.02 Power and Authority; Enforceable Obligations.

(a) The execution, delivery and performance by such Guarantor of each Transaction Document to which it is or will be a party, and the consummation of the transactions contemplated hereby and thereby (including the conversion of the Dutch Loans), are within such Guarantor's corporate powers and have been duly authorized by all necessary corporate action pursuant to the *estatutos sociales* of such Guarantor.

(b) This Agreement and the other Transaction Documents to which such Guarantor is a party have been duly executed and delivered by such Guarantor and constitute legal, valid and binding obligations of such Guarantor enforceable in accordance with their respective terms, except as enforceability may be limited by applicable *concurso mercantil*, bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equity principals.

6.03 Compliance with Law and Other Instruments. The execution, delivery and performance of this Agreement and any of the other Transaction Documents to which such Guarantor is a party and the consummation of the transactions herein or therein contemplated, and compliance with the terms and provisions hereof and thereof, do not and will not (a) conflict with, or result in a breach or violation of, or constitute a default under, or result in the creation or imposition of any Lien upon the assets of such Guarantor pursuant to, any Contractual Obligation of such Guarantor or (b) result in any violation of the *estatutos sociales* of such Guarantor or any provision of any Requirement of Law applicable to such Guarantor.

6.04 Consents/Approvals. No order, permission, consent, approval, license, authorization, registration or validation of, or notice to or filing with, or exemption by, any Governmental Authority or third party is required to authorize, or is required in connection with, the execution, delivery and performance by such Guarantor of this Agreement and the other Transaction Documents to which such Guarantor is a party or the taking of any action contemplated hereby or by any other Transaction Document.

6.05 No Immunity. Such Guarantor is subject to civil and commercial law with respect to its obligations under this Agreement and each other Transaction Document to which it is a party and the execution, delivery and performance of this Agreement or any such other Transaction Document by such Guarantor constitute private and commercial acts rather than public or governmental acts. Under the laws of Mexico neither such Guarantor nor any of its property has any immunity from jurisdiction of any court or any legal process (whether through service or notice, attachment prior to judgment or attachment in aid of execution).

6.06 Governmental Regulations.

(a) Such Guarantor is not, and is not controlled by, an "investment company" within the meaning of the United States Investment Company Act of 1940, as amended; or

(b) Such Guarantor is not subject to regulation under the Public Utility Holding Company Act of 2005, as amended ("PUHCA") that would have the effect of preventing the execution and performance, or the enforceability, of its obligations under each Loan Document to which it is a party.

6.07 Direct Obligations; Pari Passu.

(a) This Agreement constitutes a direct, unconditional unsubordinated and unsecured obligation of such Guarantor.

(b) The obligations of such Guarantor under this Agreement rank and will rank in priority of payment at least *pari passu* with all other senior unsecured Debt of such Guarantor.

6.08 No Recordation Necessary. This Agreement is in proper legal form under the law of Mexico for the enforcement thereof against such Guarantor under the law of Mexico. To ensure the legality, validity, enforceability or admissibility in evidence of this Agreement and each other Transaction Document in Mexico, it is not necessary that this Agreement or any other Transaction Document be filed or recorded with any Governmental Authority in Mexico or that any stamp or similar tax be paid on or in respect of this Agreement or any other document to be furnished under this Agreement unless such stamp or similar taxes have been paid by a Credit Party; provided, however, that in the event any legal proceedings are brought in the courts of Mexico, an official

Spanish translation of the documents required in such proceedings, including this Agreement, would have to be approved by the court after the defendant is given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents.

6.09 Choice of Law; Submission to Jurisdiction and Waiver of Sovereign Immunity. In any action or proceeding involving such Guarantor arising out of or relating to this Agreement in any Mexican court or tribunal, the Lenders, the Structuring Agent, the Joint Lead Arrangers and the Administrative Agent would be entitled to the recognition and effectiveness of the choice of law, appointment of process agent, submission to jurisdiction and waiver of sovereign immunity provisions of Sections 13.10, 13.12, 13.11 and 13.13.

6.10 Solvency. Each Guarantor is and, after giving effect to the Loans and each of the transactions contemplated by this Agreement and the Transaction Documents, each of the Guarantors will be, Solvent.

ARTICLE VII
AFFIRMATIVE COVENANTS APPLICABLE TO THE LOANS

Each Credit Party covenants and agrees for the benefit of the Lenders that, until all Obligations owed to the Lenders are paid in full, it will, unless waived in writing by the Required Lenders pursuant to the provisions set forth in Section 13.02:

7.01 Financial Reports and Other Information. The Borrower will deliver to the Administrative Agent (with a copy for each Lender):

(a) as soon as available and in any event within 120 days after the end of each fiscal year of the Parent, a copy of the annual audit report for such year for the Parent and its Subsidiaries containing consolidated and consolidating balance sheets of the Parent and its Subsidiaries, as of the end of such fiscal year and consolidated statements of income and cash flows of the Parent and its Subsidiaries, for such fiscal year, in each case accompanied by an opinion acceptable to the Required Lenders by KPMG Cardenas Dosal, S.C. or other independent public accountants of recognized standing acceptable to the Required Lenders, together with (i) a certificate of such accounting firm to the Lenders stating that in the course of the regular audit of the business of the Parent and its Subsidiaries, which audit was conducted by such accounting firm in accordance with Applicable GAAP, such accounting firm has obtained no knowledge that a Default or Event of Default has occurred and is continuing, or if, in the opinion of such accounting firm a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and (ii) a certificate of a Responsible Officer of the Parent, stating that no Default or Event of Default has occurred and is continuing or, if a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and the action that the Credit Parties have taken and proposes to take with respect thereto; provided that in the event of any change in the Applicable GAAP used in the preparation of such

financial statements, the Parent shall also provide, for informational purposes only, a statement of reconciliation conforming such financial statements to Applicable GAAP consistent with those applied in the preparation of the financial statements referred to in Section 4.01(b) of the Dutch Loan "A" Agreement and provided further that all such documents will be prepared in English; and

(b) as soon as available and in any event within sixty (60) days after the end of each of the first three quarters of each fiscal year of the Parent, consolidated balance sheets of the Parent and its Subsidiaries, as of the end of such quarter and consolidated statements of income and cash flows of the Parent and its Subsidiaries for the period commencing at the end of the previous fiscal year and ending with the end of such quarter, duly certified (subject to year-end audit adjustments) by any Responsible Officer of the Parent as having been prepared in accordance with Applicable GAAP and together with a certificate of a Responsible Officer of the Parent, as to compliance with the terms of this Agreement and stating that no Default or Event of Default has occurred and is continuing or, if a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and the action that the Parent has taken and proposes to take with respect thereto; provided that in the event of any change in the Applicable GAAP used in the preparation of such financial statements, the Parent shall also provide, for informational purposes only, a statement of reconciliation conforming such financial statements to Applicable GAAP consistent with those applied in the preparation of the financial statements referred to in Section 4.01(b) of the Dutch Loan "A" Agreement and provided further that all such documents will be prepared in English.

7.02 Notice of Default and Litigation. The Borrower will furnish to the Administrative Agent (and the Administrative Agent will notify each Lender):

(a) as soon as practicable and in any event within five (5) days after the occurrence of each Default or Event of Default continuing on the date of such statement, a statement of the Responsible Officer of any Credit Party setting forth details of such Default or Event of Default and the action that the Borrower has taken and proposes to take with respect thereto; and

(b) promptly after commencement thereof, notice of all Litigation affecting the Credit Parties or any of their Subsidiaries or the receipt of written notice by the Credit Parties or any of their Subsidiaries of potential liability or responsibility for violation, or alleged violation of any federal, state or local law, rule or regulation (including but not limited to Environmental Laws) the violation of which could reasonably be expected to have a Material Adverse Effect.

7.03 Compliance with Laws and Contractual Obligations, Etc .. Each of the Credit Parties will comply, and cause each of its Subsidiaries to comply, in all material respects, with all applicable Requirements of Law (including with respect to the licenses, approvals, certificates, permits, franchises, notices, registrations and other governmental authorizations necessary to the ownership of its respective properties or to the conduct of

its respective business, antitrust laws or Environmental Laws and laws with respect to social security and pension funds obligations) and all material Contractual Obligations, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect.

7.04 Payment of Obligations. Each of the Credit Parties will pay and discharge, and cause each of its Subsidiaries to pay and discharge, before the same shall become delinquent, (a) all taxes, assessments and governmental charges or levies assessed, charged or imposed upon it or upon its property and (b) all lawful claims that, if unpaid, might by law become a Lien upon its property, except where the failure to make such payments or effect such discharges could not reasonably be expected to have a Material Adverse Effect; provided, however, that no Credit Party nor any of its Subsidiaries shall be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim that is being contested in good faith and by proper proceedings and as to which appropriate reserves are being maintained, unless and until any Lien resulting therefrom attaches to its property and becomes enforceable against its other creditors.

7.05 Maintenance of Insurance. Each of the Credit Parties will maintain, and cause each of its Subsidiaries to maintain, insurance with reputable insurance companies or associations in such amounts and covering such risks as is usually carried by companies of established reputation engaged in similar businesses and owning similar properties in the same general areas in which the Credit Parties or such Subsidiary operates.

7.06 Conduct of Business and Preservation of Corporate Existence. Each of the Credit Parties will continue to engage in business of the same general type as now conducted by such Credit Party and will preserve and maintain, and cause each of its Material Subsidiaries to preserve and maintain, its corporate existence, rights (charter and statutory), licenses, consents, permits, notices or approvals and franchises deemed material to its business; provided that none of the Credit Parties nor any of their Subsidiaries shall be required to maintain its corporate existence in connection with a merger or consolidation in compliance with Section 8.03; and provided, further, that none of the Credit Parties nor any of their Subsidiaries shall be required to preserve any right or franchise if such Credit Party or any such Subsidiary shall in its good faith judgment, determine that the preservation thereof is no longer in the best interests of such Credit Party or such Subsidiary, as the case may be, and that the loss thereof could not reasonably be expected to have a Material Adverse Effect.

7.07 Books and Records. Each of the Credit Parties will keep, and cause their Subsidiaries to keep, proper books of record and account, in which full and correct entries shall be made of all financial transactions and the assets and business of the Credit Parties and each such Subsidiary in accordance with Applicable GAAP consistently applied.

7.08 Maintenance of Properties, Etc.. Each of the Credit Parties will:

(a) maintain and preserve, and cause each of its Subsidiaries to maintain and preserve, all of its properties that are used or useful in the conduct of its business in good working order and condition, ordinary wear and tear excepted, and

(b) maintain, preserve and protect all intellectual property and all necessary governmental and third party approvals, franchises, licenses and permits, material to the business of the Credit Parties and their Subsidiaries, taken as a whole, provided neither paragraph (a) nor this paragraph (b) shall prevent the Credit Parties or their Subsidiaries from discontinuing the operation and maintenance of any of their properties or allowing to lapse certain approvals, licenses or permits which discontinuance is desirable in the conduct of its business and which discontinuance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

7.09 Pari Passu Ranking. Each Credit Party will ensure at all times that its respective Obligations with respect to the Loans under the Transaction Documents constitute unconditional general obligations of such Credit Party ranking in priority of payment at least pari passu with all other senior unsecured, unsubordinated Debt of such Credit Party.

7.10 Transactions with Affiliates. Each of the Credit Parties will conduct, and cause each of its Subsidiaries to conduct, all transactions otherwise permitted under this Agreement with any of its Affiliates on terms that are commercially reasonable and no less favorable to such Credit Party or such Subsidiary than it would obtain in a comparable arm's-length transaction with a Person not an Affiliate.

7.11 Maintenance of Governmental Approvals. The Credit Parties will maintain in full force and effect at all times all approvals of and filings with any Governmental Authority or third party required under applicable law for the conduct of its business (including, without limitation, antitrust laws or Environmental Laws) and the performance of the Credit Parties' obligations hereunder and under the other Transaction Documents by the Borrower and/or the Guarantors, as applicable, and for the validity or enforceability hereof and thereof, except where failure to maintain any such approvals or filings could not reasonably be expected to have a Material Adverse Effect.

7.12 Inspection of Property. At any reasonable time during normal business hours and from time to time with at least ten (10) Business Days prior notice, or at any time if a Default or Event of Default shall have occurred and be continuing, permit the Administrative Agent or any of the Lenders or any agents or representatives thereof to examine and make abstracts from the records and books of account of, and visit the properties of any Credit Party, and to discuss the affairs, finances and accounts of such Credit Party with any of its officers or directors and with its independent certified public accountants. All expenses associated with such inspection shall be borne by the inspecting Lenders; provided that if a Default or an Event of Default shall have occurred and be continuing, any expenses associated with such inspection shall be borne jointly and severally by Credit Parties.

ARTICLE VIII
NEGATIVE COVENANTS APPLICABLE TO THE LOANS

Each Credit Party covenants and agrees for the benefit of the Lenders that until all Obligations owed to the Lenders are paid in full, it will, unless waived in writing by the Required Lenders pursuant to the provisions set forth in Section 13.02:

8.01 Financial Conditions.

(a) The Parent shall not permit the Consolidated Net Debt / EBITDA Ratio at any time to exceed:

(i) 4.50 to 1.0 during the Reference Period ending on each of December 31, 2008 and March 31, 2009;

(ii) 4.75 to 1.0 during the Reference Period ending on June 30, 2009;

(iii) 4.50 to 1.0 during the Reference Period ending on each of September 30, 2009 and December 31, 2009;

(iv) 4.25 to 1.0 during the Reference Period ending on each of March 31, 2010 and June 30, 2010;

(v) 4.00 to 1.0 during the Reference Period ending on September 30, 2010; and

(vi) 3.75 to 1.0 during the Reference Period ending on each of December 31, 2010, March 31, 2011 and the Maturity Date.

(b) The Parent shall not permit the Consolidated Fixed Charge Coverage Ratio at the end of each fiscal quarter to be less than 2.5 to 1.

(c) Concurrently with the delivery by the Borrower of any financial statements pursuant to Section 7.01, any Credit Party shall deliver to the Administrative Agent (with a copy to each Lender) a certificate from a Responsible Officer of the Parent containing all information and calculations necessary for determining compliance with Sections 8.01 (a), as applicable, and (b) above.

(d) For the purpose of calculating the Consolidated Net Debt / EBITDA Ratio in Section 8.01(a) above only, "Consolidated Net Debt" shall not include any Debt which, notwithstanding falling within the definition of Debt, is not required to be recorded as a liability by the Parent on its consolidated balance sheet in accordance with Mexican FRS.

8.02 Liens. The Parent shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of the Parent or any Subsidiary, whether now owned or held or hereafter acquired, other than the following Liens ("Permitted Liens"):

(a) Liens for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which adequate reserves or other appropriate provision, if any, as shall be required by Applicable GAAP shall have been made;

(b) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Applicable GAAP shall have been made;

(c) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security;

(d) any attachment or judgment Lien, unless the judgment it secures shall not, within sixty (60) days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within sixty (60) days after the expiration of any such stay;

(e) Liens that are described in Schedule 8.02(e) attached hereto;

(f) any Lien on property acquired by the Parent after the date hereof that was existing on the date of acquisition of such property; provided that such Lien was not incurred in anticipation of such acquisition, and any Lien created to secure all or any part of the purchase price, or to secure Debt incurred or assumed to pay all or any part of the purchase price, of property acquired by the Parent or any of its Subsidiaries after the date hereof; provided, further, that (A) any such Lien permitted pursuant to this clause (f) shall be confined solely to the item or items of property so acquired (including, in the case of any Acquisition of a corporation through the acquisition of 51% or more of the voting stock of such corporation, the stock and assets of any Acquired Subsidiary or Acquiring Subsidiary) and, if required by the terms of the instrument originally creating such Lien, other property which is an improvement to, or is acquired for specific use with, such acquired property; and (B) if applicable, any such Lien shall be created within nine (9) months after, in the case of property, its acquisition, or, in the case of improvements, their completion;

(g) any Lien renewing, extending or refunding any Lien permitted by clause (f) above; provided that the principal amount of Debt secured by such Lien immediately prior thereto is not increased or the maturity thereof reduced and such Lien is not extended to other property;

(h) any Liens created on shares of Capital Stock of the Parent or any of its Subsidiaries solely as a result of the deposit or transfer of such shares into a trust or a special purpose vehicle (including any entity with legal personality) of which such shares constitute the sole assets; provided that (A) any shares of Subsidiary stock held in such trust, corporation or entity could be sold by the Parent; and (B) proceeds from the deposit or transfer of such shares into such trust, corporation or entity and from any transfer of or distributions in respect of the Parent's or any Subsidiary's interest in such trust, corporation or entity are applied as provided under Section 8.04; and provided, further, that such Liens may not secure Debt of the Parent or any Subsidiary (unless permitted under another clause of this Section 8.02);

(i) any Liens on securities securing repurchase obligations in respect of such securities;

(j) any Liens in respect of any Qualified Receivables Transaction;

(k) in addition to the Liens permitted by the foregoing clauses (a) through (j), Liens securing Debt of the Parent and its Subsidiaries (taken as a whole) not in excess of 5% of the Adjusted Consolidated Net Tangible Assets of the Parent and its Subsidiaries; and

(l) any Liens on "margin stock" purchased with the proceeds of the Loans within the meaning of Regulation U, if and to the extent the value of all "margin stock" of the Parent and its Subsidiaries exceeds 25% of the value of the total assets of the Parent and its Subsidiaries;

unless, in each case, the Parent has made or caused to be made effective provision whereby the Obligations hereunder are secured equally and ratably with, or prior to, the Debt secured by such Liens (other than Permitted Liens) for so long as such Debt is so secured.

8.03 Consolidations and Mergers. None of the Credit Parties shall, in one or more related transactions, (x) consolidate with or merge into any other Person or permit any other Person to merge into it or (y) directly or indirectly, transfer, convey, sell, lease or otherwise dispose of all or substantially all of its properties or assets to any Person, unless, with respect to any transaction described in clause (x) or (y), immediately after giving effect to such transaction:

(a) the Person formed by any such consolidation or merger, if it is not the Borrower or such Guarantor, or the Person that acquires by transfer, conveyance, sale, lease or other disposition all or substantially all of the properties and assets of the Borrower or such Guarantor (any such Person, a "Successor") (i) shall be a corporation organized and validly existing under the laws of its place of incorporation, which in the case of a Successor to the Borrower shall be Mexico, the United States, Canada, France, Belgium, Germany, Italy, Luxembourg, The Netherlands, Portugal, Spain, Switzerland or

the United Kingdom, or any political subdivision thereof, (ii) in the case of a Successor to the Borrower, shall expressly assume, pursuant to a written agreement in form and substance satisfactory to the Required Lenders, the Obligations of the Borrower pursuant to this Agreement and the performance of every covenant on part of the Credit Parties to be performed and observed and (iii) in the case of a Successor to any Guarantor, shall expressly assume, pursuant to a written agreement in form and substance satisfactory to the Required Lenders, the performance of every covenant of this Agreement on part of such Guarantor to be performed and observed;

(b) in the case of any such transaction involving the Borrower or any Guarantor, the Borrower or such Guarantor, or the Successor of any thereof, as the case may be, shall expressly agree to indemnify each Lender and the Administrative Agent against any tax, levy, assessment or governmental charge payable by withholding or deduction thereafter imposed on such Lender and/or the Administrative Agent solely as a consequence of such transaction with respect to payments under the Transaction Documents;

(c) immediately after giving effect to such transaction, including for purposes of this clause (c) the substitution of any Successor to the Borrower for the Borrower or the substitution of any Successor to a Guarantor for such Guarantor and treating any Debt or Lien incurred by the Borrower or any Successor to the Borrower, or by a Guarantor of the Borrower or any Successor to such Guarantor, as a result of such transactions as having been incurred at the time of such transaction (and incurred for the purposes of Section 8.07), no Default or Event of Default shall have occurred and be continuing; and

(d) the Borrower shall have delivered to the Administrative Agent an officer's certificate and an opinion of counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a written agreement is required in connection with such transaction, such written agreement comply with the relevant provisions of this Article VIII and that all conditions precedent provided for in this Agreement relating to such transaction have been complied with.

8.04 Sales of Assets, Etc. The Parent will not, and will not permit any of its Material Subsidiaries to, sell, lease or otherwise dispose of any of its assets (including the Capital Stock of any Subsidiary), other than (a) inventory, trade receivables and assets surplus to the needs of the business of the Parent or any Subsidiary sold in the ordinary course of business, (b) assets not used, usable or held for use in connection with cement operations and related operations, and (c) any "margin stock" within the meaning of Regulation U acquired by the Parent through a Tender Offer, unless the proceeds of the sale of such assets are retained by the Parent or such Subsidiary, as the case may be, and, as promptly as practicable after such sale (but in any event within one hundred and eighty (180) days of such sale), the proceeds are applied to (i) expenditures for property, plant and equipment usable in the cement industry or related industries; (ii) the repayment of senior Debt of the Parent or any of its Subsidiaries, whether secured or unsecured; or (iii) investments in companies engaged in the cement industry or related industries; provided,

however, that the net proceeds from Qualified Receivables Transactions to the extent exceeding, in the aggregate, the aggregate U.S.$ amount set forth in Schedule 8.04 attached hereto shall be applied to the repayment of senior Debt of the Parent or any of its Subsidiaries, whether secured or unsecured; and provided, that, nothing in this Section 8.04 shall prevent any sale, lease or other disposal of assets from any Subsidiary to another Subsidiary.

8.05 Change in Nature of Business. Neither the Parent nor the Borrower shall make, or permit any of its Material Subsidiaries to make, any material change in the nature of its business as carried on at the date hereof.

8.06 Margin Regulations. None of the Credit Parties shall use any part of the proceeds of the Loans for any purpose which would result in any violation (whether by any of the Credit Parties, the Administrative Agent or the Lenders) of Regulation T, U or X of the Federal Reserve Board or to extend credit to others for any such purpose. None of the Credit Parties shall engage in, or maintain as one of its important activities, the business of extending credit for the purpose of purchasing or carrying any margin stock (as defined in such regulations).

8.07 Limitation on Indebtedness. The Parent shall not, and shall not permit any of its Subsidiaries to, Incur any Debt (including Acquired Debt), provided that, the Parent or any Subsidiary may Incur Debt if on the date of such Incurrence and after giving effect thereto on a pro forma basis (as if such Debt had been Incurred on the first day of the relevant Reference Period): (a) the Consolidated Net Debt / EBITDA Ratio is less than 3.5 to 1.0 and (b) no Event of Default has occurred and is continuing or would result from the Incurrence of such Debt. Notwithstanding the foregoing, the Parent and its Subsidiaries may Incur Permitted Debt.

(a) Upon each Incurrence of Debt, the Parent or Subsidiary, as the case may be, may designate (and later re-designate) in its sole discretion pursuant to which category of Permitted Debt any Debt is being Incurred and may subdivide an amount of Debt and designate (and later redesignate) more than one such category pursuant to which such amount of Debt is being Incurred and such Permitted Debt shall not be deemed to have been Incurred or outstanding under any other category of Permitted Debt. For the avoidance of doubt, the inability of the Parent or its Subsidiary to Incur Debt under one category shall not limit the ability of the Parent or its Subsidiary to Incur Debt under another category.

(b) Accrual of interest shall not be deemed to be an Incurrence of Debt for purposes of this Section 8.07. Notwithstanding any other provision of this covenant, the maximum amount of Debt that the Parent and its Subsidiaries may Incur pursuant to this covenant shall not be deemed to be exceeded, with respect to any outstanding Debt, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Debt Incurred to refinance other Debt, if Incurred in a different currency from the Debt being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Debt is denominated that is in effect on the date of such refinancing.

(c) For purposes of determining compliance with any U.S. Dollar-denominated restriction on the Incurrence of Debt, the U.S. Dollar equivalent principal amount of Debt denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Debt was Incurred.

ARTICLE IX
OBLIGATIONS OF GUARANTORS

9.01 The Guaranty. Each of the Guarantors jointly and severally hereby unconditionally and irrevocably guarantees (as a primary obligor and not merely as surety) payment in full as provided herein of all Obligations payable by the Borrower to each Lender, the Administrative Agent, the Structuring Agent and the Joint Lead Arrangers under this Agreement and the other Transaction Documents, as and when such amounts become payable (whether at stated maturity, by acceleration or otherwise).

9.02 Nature of Liability. The obligations of the Guarantors hereunder are guarantees of payment and shall remain in full force and effect until all Obligations of the Borrower have been validly, finally and irrevocably paid in full, and shall not be affected in any way by the absence of any action to obtain such amounts from the Borrower or by any variation, extension, waiver, compromise or release of any or all Obligations from time to time therefor. Each Guarantor waives all requirements as to promptness, diligence, presentment, demand for payment, protest and notice of any kind with respect to this Agreement and the other Transaction Documents.

9.03 Unconditional Obligations. Notwithstanding any contrary principles under the laws of any jurisdiction other than the State of New York, the obligations of each of the Guarantors hereunder shall be unconditional, irrevocable and absolute and, without limiting the generality of the foregoing, shall not be impaired, terminated, released, discharged or otherwise affected by the following:

(a) the existence of any claim, set-off or other right which either of the Guarantors may have at any time against the Borrower, the Administrative Agent, any Lenders or any other Person, whether in connection with this transaction or with any unrelated transaction;

(b) any invalidity or unenforceability of this Agreement or any other Transaction Document relating to or against the Borrower or either of the Guarantors for any reason;

(c) any provision of applicable law or regulation purporting to prohibit the payment by the Borrower of any amount payable by the Borrower under this Agreement or any of the other Transaction Documents or the payment, observance, fulfillment or performance of any other Obligations;

(d) any change in the name, purposes, business, Capital Stock (including the ownership thereof) or constitution of the Borrower;

(e) any amendment, waiver or modification of any Transaction Document in accordance with the terms hereof and thereof; or

(f) any other act or omission to act or delay of any kind by the Borrower, the Administrative Agent, the Lenders or any other Person or any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge of or defense to either of the Guarantors' obligations hereunder.

9.04 Independent Obligation. The obligations of each of the Guarantors hereunder are independent of the Borrower's obligations under the Transaction Documents and of any guaranty or security that may be obtained for the Obligations. The Administrative Agent and the Lenders may neglect or forbear to enforce payment hereunder, under any Transaction Document or under any guaranty or security, without in any way affecting or impairing the liability of each Guarantor hereunder. The Administrative Agent or the Lenders shall not be obligated to exhaust recourse or take any other action against the Borrower or under any agreement to purchase or security which the Administrative Agent or the Lenders may hold before being entitled to payment from the Guarantors of the obligations hereunder or proceed against or have resort to any balance of any deposit account or credit on the books of the Administrative Agent or the Lenders in favor of the Borrower or each of the Guarantors. Without limiting the generality of the foregoing, the Administrative Agent or the Lenders shall have the right to bring suit directly against either of the Guarantors, either prior or subsequent to or concurrently with any lawsuit against, or without bringing suit against, the Borrower and/or the other Guarantor.

9.05 Waiver of Notices. Each of the Guarantors hereby waives notice of acceptance of this Article IX and notice of any liability to which it may apply, and waives presentment, demand for payment, protest, notice of dishonor or nonpayment of any such liability, suit or the taking of other action by the Administrative Agent or the Lenders against, and any other notice, to the Guarantors.

9.06 Waiver of Defenses. To the extent permitted by New York law and notwithstanding any contrary principles under the laws of any other jurisdiction, each of the Guarantors hereby waives any and all defenses to which it may be entitled, whether at common law, in equity or by statute which limits the liability of, or exonerates, guarantors or which may conflict with the terms of this Article IX, including failure of consideration, breach of warranty, statute of frauds, merger or consolidation of the Borrower, prior notice to the Borrower, that the Borrower's assets are used to repay the Loans first, that the liability of the Guarantors be split, statute of limitations, accord and

satisfaction and usury. Without limiting the generality of the foregoing, each of the Guarantors consents that, without notice to such Guarantor and without the necessity for any additional endorsement or consent by such Guarantor, and without impairing or affecting in any way the liability of such Guarantor hereunder, the Administrative Agent and the Lenders may at any time and from time to time, upon or without any terms or conditions and in whole or in part, (a) change the manner, place or terms of payment of, and/or change or extend the time or payment of, renew or alter, any of the Obligations, any security therefor, or any liability incurred directly or indirectly in respect thereof, and this Article IX shall apply to the Obligations as so changed, extended, renewed or altered; (b) exercise or refrain from exercising any right against the Borrower or others (including the Guarantors) or otherwise act or refrain from acting; (c) settle or compromise any of the Obligations, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any such liability (whether due or not) of the Borrower to creditors of the Borrower other than the Administrative Agent and the Lenders and the Guarantors; (d) apply any sums by whomsoever paid or howsoever realized, other than payments of the Guarantors of the Obligations, to any liability or liabilities of the Borrower under the Transaction Documents or any instruments or agreements referred to herein or therein, to the Administrative Agent and the Lenders regardless of which of such liability or liabilities of the Borrower under the Transaction Documents or any instruments or agreements referred to herein or therein remain unpaid; (e) consent to or waive any breach of, or any act, omission or default under the Obligations or any of the instruments or agreements referred to in this Agreement and the other Transaction Documents, or otherwise amend, modify or supplement the Obligations or any of such instruments or agreements, including the Transaction Documents; and/or (f) request or accept other support of the Obligations or take and hold any security for the payment of the Obligations or the obligations of the Guarantors under this Article IX, or allow the release, impairment, surrender, exchange, substitution, compromise, settlement, rescission or subordination thereof.

9.07 Bankruptcy and Related Matters.

(a) So long as any of the Obligations remain outstanding, each Credit Party shall not, without the prior written consent of the Administrative Agent (acting with the consent of the Required Lenders), commence or join with any other Person in commencing any bankruptcy, liquidation, reorganization, *concurso mercantil* or insolvency proceedings of, or against, the Borrower.

(b) If acceleration of the time for payment of any amount payable by the Borrower under this Agreement or the Maturity "A" Notes is stayed upon the insolvency, bankruptcy, reorganization, *concurso mercantil* or any similar event of the Borrower or otherwise, all such amounts otherwise subject to acceleration under the terms of this Agreement shall nonetheless be payable by the Guarantors hereunder forthwith on demand by the Administrative Agent made at the request of the Lenders.

(c) The obligations of each of the Guarantors under this Article IX shall not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding or action, voluntary or involuntary, involving the bankruptcy, insolvency, *concurso mercantil,* receivership, reorganization, marshalling of assets, assignment for the benefit of creditors, readjustment, liquidation or arrangement of the Borrower or similar proceedings or actions or by any defense which the Borrower may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding or action. Without limiting the generality of the foregoing, the Guarantors' liability shall extend to all amounts and obligations that constitute the Obligations and would be owed by the Borrower but for the fact that they are unenforceable or not allowable due to the existence of any such proceeding or action.

(d) Each of the Guarantors acknowledges and agrees that any interest on any portion of the Obligations which accrues after the commencement of any proceeding or action referred to above in Section 9.07(c) (or, if interest on any portion of the Obligations ceases to accrue by operation of law by reason of the commencement of said proceeding or action, such interest as would have accrued on such portion of the Obligations if said proceedings or actions had not been commenced) shall be included in the Obligations, it being the intention of the Guarantors, the Administrative Agent, and the Lenders that the Obligations which are to be guaranteed by the Guarantors pursuant to this Article IX shall be determined without regard to any rule of law or order which may relieve the Borrower of any portion of such Obligations. The Guarantors will take no action to prevent any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or similar person from paying the Administrative Agent, or allowing the claim of the Administrative Agent, for the benefit of the Administrative Agent, and the Lenders, in respect of any such interest accruing after the date of which such proceeding is commenced, except to the extent any such interest shall already have been paid by the Guarantors.

(e) Notwithstanding anything to the contrary contained herein, if all or any portion of the Obligations are paid by or on behalf of the Borrower, the obligations of the Guarantors hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered, directly or indirectly, from the Administrative Agent and/or the Lenders as a preference, preferential transfer, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Obligations for all purposes under this Article IX, to the extent permitted by applicable law.

9.08 No Subrogation. Notwithstanding any payment or payments made by any of the Guarantors hereunder or any set-off or application of funds of any of the Guarantors by the Administrative Agent or any Lender, no Guarantor shall be entitled to be subrogated to any of the rights of the Administrative Agent or any Lender against the Borrower or any other Guarantor or any collateral security or guarantee or right of offset held by the Administrative Agent or any Lender for the payment of the Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from

the Borrower or any other Guarantor in respect of payments made by such Guarantor hereunder, until all amounts owing to the Administrative Agent and the Lenders by the Borrower on account of the Obligations shall have been indefeasibly paid in full in cash. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all of the Obligations shall not have been indefeasibly paid in full in cash, such amount shall be held by such Guarantor in trust for the Administrative Agent and the Lenders, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be turned over to the Administrative Agent in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Administrative Agent, if required), to be applied against the Obligations, whether matured or unmatured, in such order as the Administrative Agent may determine.

9.09 Right of Contribution. Subject to Section 9.08, each Guarantor hereby agrees that to the extent that a Guarantor shall have paid more than its proportionate share of any payment made hereunder, such Guarantor shall be entitled to seek and receive contribution from and against any other Guarantor hereunder who has not paid its proportionate share of such payment. The provisions of this Section 9.09 shall in no respect limit the obligations and liabilities of any Guarantor to the Administrative Agent, the Structuring Agent, the Joint Lead Arrangers and the Lenders, and each Guarantor shall remain liable to the Administrative Agent, the Structuring Agent, the Joint Lead Arrangers and the Lenders for the full amount guaranteed by such Guarantor hereunder.

9.10 General Limitation on Guaranty. In any action or proceeding involving any applicable corporate law, or any applicable bankruptcy, insolvency, reorganization, *concurso mercantil* or other law affecting the rights of creditors generally, if the obligations of any Guarantor under this Article IX would otherwise, taking into account the provisions of Section 9.09, be held or determined to be void, invalid or unenforceable, or subordinated to the claims of any other creditors, on account of the amount of its liability under Section 9.01, then, notwithstanding any other provision hereof to the contrary, the amount of such liability shall, without any further action by such Guarantor, any Lender, the Administrative Agent or any other Person, be automatically limited and reduced to the highest amount that is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding.

9.11 Covenants of the Guarantors. Each Guarantor hereby covenants and agrees that, so long as any Obligations with respect to the Loans under this Agreement and any other Transaction Document remain unpaid, it shall comply with the covenants contained or incorporated by reference in this Agreement applicable to the Loans to the extent applicable to it.

ARTICLE X
EVENTS OF DEFAULT

10.01 Events of Default Applicable to the Loans. The following specified events shall constitute "Events of Default" for the purposes of this Agreement:

(a) Payment Defaults. The Borrower shall (i) fail to pay any principal of the Loans when due in accordance with the terms hereof or (ii) fail to pay any interest on the Loans, any fee or any other amount payable under this Agreement or any Maturity "A" Note within three (3) Business Days after the same becomes due and payable; or

(b) Representation and Warranties. Any representation or warranty made by any Credit Party in any Transaction Document or which is contained in any certificate, document or financial or other statement furnished at any time under or in connection with this Agreement or any other Transaction Document, as applicable, shall prove to have been incorrect in any material respect on or as of the date made if such failure shall remain unremedied for thirty (30) days after the earlier of the date on which (i) a Responsible Officer of such Credit Party becomes aware of such incorrectness or (ii) written notice thereof shall have been given to the Borrower by the Administrative Agent; or

(c) Specific Defaults. A Credit Party shall fail to perform or observe any term, covenant or agreement contained in Section 7.01, 7.02(a), 7.06 (with respect to the Borrower's and each Guarantor's existence only) or 7.09 or Article VIII; or

(d) Other Defaults. A Credit Party shall fail to perform or observe any term, covenant or agreement applicable to the Loans contained in this Agreement or the Maturity "A" Notes, any certificates, waivers, or any other agreement delivered pursuant to this Agreement (other than as provided in paragraphs (a) and (c) above) and such failure shall continue unremedied for a period of thirty (30) days after the earlier of the date on which (i) the Responsible Officer of the Borrower becomes aware of such failure or (ii) written notice thereof shall have been given to the Borrower by the Administrative Agent at the request of any Lender; or

(e) Defaults under Other Agreements. The occurrence of a default or event of default under any indenture, agreement or instrument relating to any Material Debt of the Parent or any of its Subsidiaries, and such default or event of default results in the acceleration of the maturity of any principal amount of such Material Debt prior to the date on which it would otherwise become due and payable; or any principal amount of Material Debt of the Borrower or any of its Subsidiaries shall not be paid upon the scheduled maturity thereof (after giving effect to any applicable grace period); or

(f) Voluntary Bankruptcy. Any Credit Party or any Material Subsidiary shall commence a voluntary case or other proceeding seeking liquidation, reorganization, *concurso mercantil* or other relief with respect to itself or its debts under any bankruptcy, insolvency, reorganization or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing or the equivalent thereof under applicable law; or

(g) Involuntary Bankruptcy. An involuntary case or other proceeding shall be commenced against any Credit Party or any Material Subsidiary seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency, *concurso mercantil* or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty (60) consecutive days; or an order for relief shall be entered against the Parent or any Material Subsidiaries under any bankruptcy, insolvency, *suspensión de pagos* or other similar law as now or hereafter in effect; or

(h) Monetary Judgment. A final judgment or judgments or order or orders not subject to further appeal for the payment of money in an aggregate amount in excess of U.S.$50,000,000 shall be rendered against the Parent and/or any of its Subsidiaries that are neither discharged nor bonded in full within thirty (30) days thereafter; or

(i) Pari Passu. The Obligations of the Credit Parties under this Agreement shall fail to rank at least *pari passu* with all other senior unsecured Indebtedness of the Borrower or such Guarantor, as the case may be; or

(j) Validity of Agreement. The Borrower shall contest the validity or enforceability of any Transaction Document or shall deny generally the liability of the Borrower under any Transaction Documents or either Guarantor shall contest the validity of or the enforceability of their guarantee hereunder or any obligation of either Guarantor under Article IX hereof shall not be (or is claimed by either Guarantor not to be) in full force and effect; or

(k) Governmental Authority. Any governmental or other consent, license, approval, permit or authorization which is now or may in the future be necessary or appropriate under any applicable Requirement of Law for the execution, delivery, or performance by the Borrower or either Guarantor of any Transaction Document to which it is a party or to make such Transaction Document legal, valid, enforceable and admissible in evidence shall not be obtained or shall be withdrawn, revoked or modified or shall cease to be in full force and effect or shall be modified in any manner that would have an adverse effect on the rights or remedies of the Administrative Agent or the Lenders; or

(l) Expropriation, Etc. Any Governmental Authority shall condemn, nationalize, seize or otherwise expropriate all or any substantial portion of the property of, or Capital Stock issued or owned by, the Borrower or either Guarantor or take any action that would prevent the Borrower or either Guarantor from performing its obligations under this Agreement or the Maturity "A" Notes, the Conversion Notice, any certificates, waivers, or any other agreements delivered pursuant to this Agreement; or

(m) Moratorium; Availability of Foreign Exchange. A moratorium shall be agreed or declared in respect of any Debt of the Borrower or either Guarantor or any restriction or requirement not in effect on the date hereof shall be imposed, whether by legislative enactment, decree, regulation, order or otherwise, which limits the availability or the transfer of foreign exchange by the Borrower or either Guarantor for the purpose of performing any material obligation under this Agreement or the Maturity "A" Notes, any certificates, waivers, or any other agreements delivered pursuant to this Agreement; or

(n) Change of Ownership or Control. The beneficial ownership (within the meaning of Rule 13d-3 promulgated by the Securities Exchange Commission under the Securities Exchange Act of 1934, as amended) of 20% or more in voting power of the outstanding voting stock of the Borrower or either Guarantor is acquired by any Person after the Dutch Loan Closing Date; provided that the acquisition of beneficial ownership of Capital Stock of the Borrower or either Guarantor by Lorenzo H. Zambrano or any member of his immediate family shall not constitute an Event of Default.

10.02 Remedies.

(a) If an Event of Default under Sections 10.01(f) and (g) occurs with respect to any Credit Party, the outstanding principal amount of the Loans together with any accrued but unpaid interest thereon, in each case without notice or any other act by the Lenders, shall immediately become due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

(b) If any Event of Default has occurred and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders declare by written notice to the Borrower, the principal amount of the outstanding Loans to be forthwith due and payable, whereupon such principal amount, together with accrued interest thereon, including any fees due under this Agreement, shall become immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived.

10.03 Notice of Default. To the extent permitted by law, the Administrative Agent shall give notice to the Borrower of any event occurring under Section 10.01(a), (b), (c) or (d) promptly upon being requested to do so by any Lender and shall thereupon notify all the Lenders thereof.

10.04 Default Interest. In the event of default by the Borrower in the payment on the due date of any sum due under this Agreement, the Borrower shall pay interest on demand on such sum from the date of such default to the day of actual receipt of such sum by the Administrative Agent (as well after as before judgment) at the rate specified in Section 2.02(c). So long as the default continues, the default interest rate shall be

recalculated on the same basis at intervals of such duration as the Administrative Agent may select, provided that the amount of unpaid interest at the above rate accruing during the preceding period (or such longer period as may be the shortest period permitted by applicable law for the capitalization of interest) shall be added to the amount in respect of which the Borrower is in default.

10.05 Remedies Independent. Any debt owing to a Lender under the Transaction Documents shall be a separate and independent debt. Except as otherwise stated in the Transaction Documents, (i) any right of a Lender under the Transaction Documents shall be a separate and independent right and (ii) a Lender may separately enforce its rights under the Transaction Documents.

ARTICLE XI
THE ADMINISTRATIVE AGENT

11.01 Appointment and Authorization.

(a) Each Lender hereby irrevocably designates and appoints ING Capital LLC as the Administrative Agent of such Lender under this Agreement, and each Lender hereby irrevocably authorizes the Administrative Agent to take such action on its behalf under the provisions of this Agreement and each other Transaction Document and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement or any other Transaction Document, together with such other powers as are reasonably incidental thereto.

(b) Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Transaction Document, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Transaction Document or otherwise exist against the Administrative Agent.

11.02 Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement or any other Transaction Document by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects with reasonable care.

11.03 Liability of Administrative Agent. Neither the Administrative Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action taken or omitted to be taken by it or any such Person under or in connection with this Agreement or any other Transaction Document or the transactions contemplated hereby (except for its or such Person's own gross negligence or willful

misconduct), or (b) responsible in any manner to any of the Lenders for any recital, statement, representation or warranty made by a Credit Party or any officer thereof contained in this Agreement or in any other Transaction Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Transaction Document, or for the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Transaction Document, or for any failure of a Credit Party or any other party to any Transaction Document to perform its obligations hereunder or thereunder. Except as otherwise expressly stated herein, the Administrative Agent shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Transaction Document, or to inspect the properties, books or records of a Credit Party.

11.04 Reliance by Administrative Agent .

(a) The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or teletype message, statement, order or other document or telephone conversation believed by it in good faith to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Transaction Document unless it shall first receive such advice or concurrence of the Required Lenders and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of failing to take, taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Transaction Document in accordance with a request or consent of the Required Lenders (or when expressly required hereby, all the Lenders) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders.

(b) For purposes of determining compliance with the conditions specified in Section 4.01, each Lender that has executed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter sent by the Administrative Agent to such Lender for consent, approval, acceptance or satisfaction on or before the Conversion Date.

11.05 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default (except for the Administrative Agent with respect to defaults in the payment of principal, interest and fees required to be paid to the Administrative Agent for the account of the Lenders) unless it shall have received written notice from a Lender or the Borrower referring to this Agreement and describing such Default or Event of Default and stating that such

notice is a "Notice of Default". The Administrative Agent shall promptly notify the Lenders of its receipt of any such notice. The Administrative Agent shall take such action with respect to such Default or Event of Default as may be requested by the Required Lenders or the Lenders; provided, however, that unless and until the Administrative Agent has received any such request, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable or in the best interest of the Lenders.

11.06 Credit Decision. Each Lender expressly acknowledges that neither the Administrative Agent nor any of its Affiliates, officers, directors, employees, agents or attorneys-in-fact has made any representation or warranty to it, and that no act by the Administrative Agent hereafter taken, including any review of the affairs of a Credit Party, or any of its Affiliates, shall be deemed to constitute any representation or warranty by the Administrative Agent to any Lender. Each Lender acknowledges to the Administrative Agent that 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 appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower, the Guarantors and their Affiliates and all applicable Lender regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent 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 analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Transaction Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of any Credit Party. Except for notices, reports and other documents expressly herein required to be furnished to the Lenders by the Administrative Agent, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any Credit Party which may come into the possession of the Administrative Agent or any of its Affiliates, officers, directors, employees, agents or attorneys-in-fact.

11.07 Indemnification. Whether or not the transactions contemplated hereby are consummated, the Lenders agree to indemnify upon demand the Administrative Agent and its Affiliates, directors, officers, advisors, agents and employees (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably based on such Lender's share of the aggregate amount of Loans outstanding hereunder, from and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever which may at any time (including at any time following the payment of the Obligations or the Maturity Date) be imposed on, incurred by or asserted against the

Administrative Agent (or any of its Affiliates, directors, officers, agents and employees) in any way relating to or arising out of this Agreement or any other Transaction Document, or any documents contemplated by or referred to herein or the transactions contemplated hereby or any action taken or omitted by the Administrative Agent under or in connection with any of the foregoing; provided, however, that no Lender shall be liable for the payment of any portion of such claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements to the extent it results from the gross negligence or willful misconduct of the Administrative Agent or its Affiliates, directors, officers, agents or employees. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its ratable share (based on its share of the aggregate amount of Loans outstanding hereunder) of any reasonable and documented costs or out-of-pocket expenses (including legal fees) incurred by the Administrative Agent in connection with the preparation, execution, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Transaction Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrower.

11.08 Administrative Agent in its Individual Capacity. ING CAPITAL LLC may make loans to, issue letters of credit for the account of, accept deposits from and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with the Borrower, the Guarantors or any of their Affiliates as though ING CAPITAL LLC were not the Administrative Agent hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, ING CAPITAL LLC or its Affiliates may receive information regarding the Borrower, the Guarantors and their Affiliates (including information that may be subject to confidentiality obligations in favor of any Credit Party) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them. With respect to the Obligations, ING CAPITAL LLC shall have the same rights and powers under this Agreement as any other Lender and may exercise the same as though it were not the Administrative Agent, and the terms "Lender" and "Lenders" include ING CAPITAL LLC in its individual capacity.

11.09 Successor Administrative Agent. The Administrative Agent may, and at the request of the Required Lenders shall, resign as the Administrative Agent upon thirty (30) days' notice to the Lenders and the Borrower. If the Administrative Agent resigns under this Agreement, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which appointment shall be subject to the approval of the Borrower, such approval not to be unreasonably withheld (unless a Default or Event of Default shall have occurred and be continuing, in which case such approval shall not be required). If no successor agent is appointed prior to the effective date of the resignation of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Lenders and the Borrower, a successor agent from among the Lenders. Upon the acceptance of its appointment as successor agent hereunder, such

successor agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and the term "Administrative Agent" shall mean such successor agent effective upon its appointment, and the retiring Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act on the part of such retiring Administrative Agent. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Article XI and Sections 13.04 and 13.05 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement. If no successor agent has accepted the appointment as Administrative Agent by the date which is thirty (30) days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective and either the Borrower or the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor agent, which shall be a commercial bank organized or licensed under the laws of the United States or of any State thereof and having a combined capital and surplus of at least U.S.$400,000,000.

ARTICLE XII
THE STRUCTURING AGENT

12.01 The Structuring Agent. The Borrower hereby confirms the designation of HSBC SECURITIES (USA) INC., as the Structuring Agent for the Loans. The Structuring Agent assumes no responsibility or obligation hereunder for servicing, enforcement or collection of the Obligations, or any duties as agent for the Lenders. The title "Structuring Agent" implies no fiduciary responsibility on the part of the Structuring Agent to the Administrative Agent, or the Lenders, and the use of such title does not impose on the Structuring Agent any duties or obligations under this Agreement except as may be expressly set forth herein.

12.02 Liability of Structuring Agent. Neither the Structuring Agent nor any of its respective officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by them or any such Person under or in connection with this Agreement or any other Transaction Document (except for such Structuring Agent's own gross negligence or willful misconduct), or (b) responsible in any manner to any Lender for any recital, statement, representation or warranty made by the Borrower or any officer thereof, contained in this Agreement or in any other Transaction Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Structuring Agent under or in connection with, this Agreement or any other Transaction Document or for the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Transaction Document or for any failure of the Borrower or any other party to any other Transaction Document to perform its obligations hereunder or thereunder. Except as otherwise expressly stated herein, the Structuring Agent shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Transaction Document, or to inspect the properties, books or records of the Borrower.

12.03 Structuring Agent in its Individual Capacity . The Structuring Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with the Borrower or any of its Affiliates as though it were not the Structuring Agent hereunder.

12.04 Credit Decision. Each Lender expressly acknowledges that neither the Structuring Agent nor any of its respective Affiliates, officers, directors, employees, agents or attorneys-in-fact have made any representation or warranty to it, and that no act by the Structuring Agent hereafter taken, including any review of the affairs of a Credit Party, shall be deemed to constitute any representation or warranty by the Structuring Agent to any Lender. Each Lender acknowledges to the Structuring Agent that it has, independently and without reliance upon the Structuring Agent, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of a Credit Party and its Affiliates and made its own decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Structuring Agent, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Transaction Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of any Credit Party. The Structuring Agent shall not have any duty or responsibility to provide any Lender with any information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of the Borrower which may come into the possession of the Structuring Agent or any of its respective officers, directors, employees, agents, attorneys-in-fact or Affiliates.

ARTICLE XIII
MISCELLANEOUS

13.01 Notices.

(a) Except as otherwise expressly provided herein, all notices, requests, demands or other communications to or upon any party hereunder with respect to the Loans shall be in writing (including facsimile transmission) and shall be sent by an overnight courier service, transmitted by facsimile or delivered by hand to such party: (i) in the case of a Credit Party, the Structuring Agent, the Joint Lead Arrangers or the Administrative Agent, at its address or facsimile number set forth on Schedule 2.01(c) or at such other address or facsimile number as such party may designate by notice to the other parties hereto and (ii) in the case of any Lender, at its address or facsimile number set forth in Schedule 2.01(b) or at such other address or facsimile number as such Lender may designate by notice to the Borrower, the Structuring Agent, the Joint Lead Arrangers and the Administrative Agent.

(b) Unless otherwise expressly provided for herein, each notice, request, demand or other communication with respect to the Loans shall be effective (1) if sent by overnight courier service or delivered by hand, upon delivery, (2) if given by facsimile, when transmitted to the facsimile number specified pursuant to paragraph (a) above and confirmation of receipt of a legible copy thereof is received, or (3) if given by any other means, when delivered at the address specified pursuant to paragraph (a) above; provided, however, that notices to the Administrative Agent under Article II, III, IV or XI shall not be effective until received.

13.02 Amendments and Waivers. No amendment, waiver or modification of any provision of this Agreement, and no consent to any departure by any Credit Party from the terms of this Agreement shall be effective, in each case without the written consent of the Credit Parties, and acknowledged by the Administrative Agent (which shall be a purely ministerial action) and signed or consented to by the Required Lenders, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no amendment, waiver or consent shall:

(a) (i) except as specifically provided herein, increase or decrease the Loan of any Lender; or

(ii) extend the maturity of any of the Obligations, extend the time of payment of interest thereon, or extend the Maturity Date; or

(iii) forgive any Obligation, reduce the principal amount of the Obligations, reduce the rate of interest thereon, reduce the amount or change the method of calculation of any fee hereunder, or change the provisions of Sections 2.03 or 3.02;

in each case without the consent of the Borrower and each Lender directly affected thereby;

(b) (i) amend, modify or waive any provision of this Section 13.02; or

(ii) change the percentage specified in the definition of Required Lenders or the number of Lenders which shall be required for the Lenders or any of them to take any action under this Agreement; or

(iii) amend, modify or waive any provision of Section 11.06;

(iv) amend, modify or waive any provision of ARTICLE IV; or

(v) amend, modify, or waive any provisions of ARTICLE IX or release any Guarantor from its obligations hereunder;

in each case without the consent of the Borrower and all the Lenders;

(c) amend, modify or waive any provision of ARTICLE XI without the written consent of the Administrative Agent; and

(d) amend, modify or waive any provision of ARTICLE XII without the consent of the Structuring Agent.

13.03 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent or any Lender, any right, remedy, power or privilege hereunder or under any other Transaction Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

13.04 Payment of Expenses, Etc. The Borrower agrees to pay on demand:

(a) all reasonable and documented out-of-pocket costs and expenses (including reasonable legal fees and disbursements of special Mexican counsel, special Dutch counsel and New York counsel to the Administrative Agent and the allocated cost of in-house counsel to the Administrative Agent), syndication (including printing, distribution and bank meetings), travel, telephone and duplication expenses and other reasonable and documented costs and out-of- pocket expenses in connection with the arrangement, documentation, negotiation and closing of the Transaction Documents;

(b) all reasonable and documented out-of-pocket costs and expenses incurred by the Administrative Agent in connection with any amendment to, waiver of, or consent to any Transaction Document or the transactions contemplated hereby, including the reasonable fees and reasonable and documented out-of-pocket expenses of special Mexican, special Dutch counsel and New York counsel to the Administrative Agent; and

(c) all reasonable and documented out-of-pocket costs and expenses incurred by the Administrative Agent or any Lender in connection with the enforcement of and/or preservation of any rights under this Agreement or any other Transaction Document (whether through negotiations, legal proceedings or otherwise), including the reasonable fees and reasonable and documented out-of-pocket expenses of special Mexican, special Dutch counsel and New York counsel to the Administrative Agent and such Lender.

13.05 Indemnification. The Borrower agrees to indemnify and hold harmless the Structuring Agent, the Joint Lead Arrangers, the Administrative Agent and each Lender and each of their Affiliates and their officers, directors, employees, agents and advisors (each, an " Indemnified Party") from and against any and all claims, damages, losses, liabilities and expenses (including reasonable fees and expenses of counsel, the allocated cost of in-house counsel and settlement costs), but excluding taxes that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or by reason of (including in connection with any investigation, litigation

or proceeding or preparation of a defense in connection therewith) (i) the Transaction Documents, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Loans or (ii) or any Environmental Action relating in any way to the Borrower or any of its Subsidiaries, except to the extent such claim, damage, loss, liability or expense is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's bad faith, gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 13.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by the Borrower, its directors, shareholders or creditors or an Indemnified Party or any other Person or any Indemnified Party is otherwise a party thereto and whether or not the transactions contemplated hereby are consummated. Each Credit Party also agrees not to assert any claim against the Structuring Agent, the Joint Lead Arrangers, the Administrative Agent, any Lender, any of their Affiliates, or any of their respective directors, officers, employees, attorneys and agents, on any theory of liability, for special, indirect, consequential or punitive damages arising out of or otherwise relating to the Transaction Documents, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Transaction Documents. Neither the Structuring Agent, the Joint Lead Arrangers, the Administrative Agent, nor any Lender shall be deemed to have any fiduciary relationship with any Credit Party.

13.06 Successors and Assigns .

(a) The provisions of this Agreement shall be binding upon the Borrower, the Guarantors, their successors and assigns and shall inure to the benefit of the Structuring Agent, the Joint Lead Arrangers, the Administrative Agent and the Lenders and their respective successors and assigns, except that the Credit Parties may not assign or otherwise transfer any of their rights or obligations under this Agreement without the prior written consent of all Lenders other than pursuant to the terms of this Agreement.

(b) Any Lender (such Lender, an "Assignor") may at any time, in its sole discretion, and any Lender, if demanded by the Borrower pursuant to Section 3.08 upon at least five (5) Business Days' notice to such Lender and Administrative Agent, (i) assign or pledge as security all or part of such Lender's rights under this Agreement but not its obligations, to any Federal Reserve Board or entity that is a lender to such Lender without the prior consent (written or otherwise) of the Borrower, the Administrative Agent, the Parent or any other third party, or (ii) assign all or part of such Lender's rights or obligations under this Agreement and any Maturity "A" Notes to any of its Affiliates or related funds or any other Lender or any Affiliate of a Lender , in each case without the prior consent (written or otherwise) of the Borrower, the Administrative Agent, the Parent or any other third party, and/or (iii) assign all or part of such Lender's rights or obligations under this Agreement and any Maturity "A" Notes to one or more banks or other financial institutions or any other person that is not a Competitor with the prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, of the Borrower, the Parent and the Administrative Agent (each such person, an

"Assignee"); provided however that, in the case of an assignment of only part of such rights and obligations under clause (iii), such assignment shall be in integral multiples of U.S.$5,000,000; provided further that in the case of an assignment of only part of such rights and obligations under clause (iii), the Borrower shall be deemed to have consented to an assignment if it fails to respond to a written request for consent within ten (10) Business Days of such request; provided, further, that if the value of the rights and obligations assigned under clause (i) or clause (ii) is less than euro 50,000 (or its equivalent in another currency or currencies) the assignee or transferee otherwise qualifies as a Professional Market Party. Upon the occurrence and continuation of an Event of Default, each Lender shall have the right, in its sole discretion, to assign all or part of its rights or obligations under this Agreement and any Maturity "A" Notes to any Person that is not a Competitor, without the prior consent (written or otherwise) of the Borrower, the Administrative Agent, the Parent or any other third party; provided however that if the value of the rights and obligations assigned is less than euro 50,000 (or its equivalent in another currency or currencies) the assignee or transferee otherwise qualifies as a Professional Market Party. Upon execution and delivery of an Assignment and Assumption Agreement pursuant to which the Assignee shall assume the Assignor's rights and obligations under this Agreement and any Maturity "A" Notes and payment by the Assignee to the Assignor of an amount equal to the purchase price agreed between such Assignor and such Assignee, such Assignee shall be a Lender party to this Agreement and shall have all the rights and obligations of a Lender with a commitment as set forth in such instrument of assumption (in addition to any commitment previously held by it), and the Assignor shall be released from its obligations hereunder to a corresponding extent (except to the extent the same arose prior to the assignment); and, in the case of an Assignment and Assumption Agreement covering all of the transferor 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 Section 3.01 (to the extent any claim thereunder relates to an event arising or such Lender's status or activity as Lender prior to such assignment), and no further consent or action by any party shall be required. Upon the consummation of any assignment pursuant to this paragraph (b), the Assignor, the Administrative Agent and the Borrower shall make appropriate arrangements so that a new Maturity "A" Note is issued to the Assignee at the expense of the Assignee. In connection with any such assignment (other than a transfer by a Lender to one of its Affiliates), the Assignor (or in the case of Section 3.07, the Borrower) shall pay to the Administrative Agent an administrative fee for processing such assignment in the amount of U.S.$3,500.

(c) Nothing herein shall prohibit any Lender from pledging or assigning any Maturity "A" Note to any Federal Reserve Bank of the United States in accordance with applicable law and without compliance with the foregoing provisions of this Section 13.06; provided, however, that such pledge or assignment shall not release such Lender from its obligations hereunder.

(d) Any Lender may, without any consent of the Borrower, the Administrative Agent or any other third party at any time grant to any Person that is not a Competitor

(each a "Participant") participating interests in its Loans; provided however that if the value of the rights and obligations assigned is less than euro 50,000 (or its equivalent in another currency or currencies) the assignee or transferee otherwise qualifies as a Professional Market Party. In the event of any such grant by a Lender of a participating interest to a Participant, whether or not upon notice to the Borrower and the Administrative Agent, such Lender shall remain responsible for the performance of its obligations hereunder, and the Borrower and the Administrative Agent shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement pursuant to which any Lender may grant such a participating interest shall provide that such Lender shall retain the sole right and responsibility to enforce the obligations of the Borrower hereunder, including the right to approve any amendment, modification or waiver of any provision of this Agreement; provided, however, that such participation agreement may provide that such Lender will not agree to any modification, amendment or waiver of this Agreement extending the maturity of any Obligation in respect of which the participation was granted, or reducing the rate or extending the time for payment of interest thereon or reducing the principal thereof, or reducing the amount or basis of calculation of any fees to accrue in respect of the participation, without the consent of the Participant. The Borrower agrees that each Participant shall, to the extent provided in its participation agreement, be entitled to the benefits of Sections 3.03 and 3.06 with respect to its participating interest as if it were a Lender named herein; provided, however, that the Borrower shall not be required to pay any greater amounts pursuant to such Sections than it would have been required to pay but for the sale to such Participant of such Participant's participation interest. An assignment or other transfer which is not permitted by paragraph (b) or (c) above shall be given effect for purposes of this Agreement only to the extent of a participating interest granted in accordance with this paragraph (d).

(e) Any Lender may, in connection with any assignment or participation or proposed assignment or participation pursuant to this Section 13.06, disclose to the Assignee or Participant or proposed Assignee or Participant, any information relating to the Borrower furnished to such Lender by or on behalf of the Borrower; provided that, prior to any such disclosure, the Assignee or Participant or proposed Assignee or Participant shall agree to preserve the confidentiality of any Confidential Information relating to the Borrower received by it from such Lender.

13.07 Right of Set-off. In addition to any rights and remedies of the Lenders provided by law, each such Lender shall have the right, without prior notice to the Credit Parties, any such notice being expressly waived by the Credit Parties to the extent permitted by applicable law, upon any amount becoming due and payable by the Credit Parties hereunder (whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender, or any

branch or agency thereof to or for the credit or the account of the Credit Parties. Each Lender agrees promptly to notify such Credit Party, as the case may be, and the Administrative Agent after any such set-off and application made by such Lender, provided that the failure to give such notice shall not affect the validity of such set-off and application.

13.08 Confidentiality. Neither the Administrative Agent nor any Lender shall disclose any Confidential Information to any other Person without the prior written consent of the Credit Parties, other than (a) to the Administrative Agent's, or such Lender's Affiliates and their officers, directors, employees, agents and advisors and, as contemplated by Section 13.06(e), to actual or prospective Assignees and Participants, and then only on a confidential basis, (b) as required by any law, rule or regulation (including as may be required in connection with an audit by the Administrative Agent's, or such Lender's independent auditors, and as may be required by any self-regulating organizations) or as may be required by or necessary in connection with any judicial process and (c) as requested by any state, federal or foreign authority or examiner regulating banks or banking. Notwithstanding the foregoing or anything contained in any Transaction Document to the contrary, the parties (and each employee, representative, or other agent of the parties) may disclose to any and all persons, without limitation of any kind, the tax treatment and any facts that may be relevant to the tax structure of the transactions contemplated by this Agreement, provided, however, that no party (and no employee, representative, or other agent thereof) shall disclose any other information that is not relevant to understanding the tax treatment and tax structure of such transactions (including the identity of any party and any information that could lead another to determine the identity of any party), or any other information to the extent that such disclosure could result in a violation of any federal or state securities law.

13.09 Use of English Language. All certificates, reports, notices and other documents and communications given or delivered pursuant to this Agreement shall be in the English language. Except in the case of the laws of, or official communications of, Mexico or The Netherlands (as applicable), the English language version of any such document shall control the meaning of the matters set forth therein.

13.10 GOVERNING LAW. THIS AGREEMENT AND THE OTHER TRANSACTION DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK.

13.11 Submission to Jurisdiction.

(a) Each of the parties hereto hereby irrevocably and unconditionally submits to the non-exclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court located in the Borough of Manhattan in New York City and any appellate court thereof for purposes of any suit, legal action or proceeding arising out of or relating to this Agreement, any other Transaction Document or the transactions contemplated hereby, and each of the parties

hereto hereby irrevocably agrees that all claims in respect of such suit, action or proceeding may be heard and determined in such federal or New York State court. Each of the parties hereto also submits to the jurisdiction of the competent courts of its corporate domicile in respect of actions initiated against it as a defendant.

(b) Each of the parties hereto hereby irrevocably waives, to the fullest extent it may effectively do so, the jurisdiction of any court other than those identified in paragraph (a) above and any objection that it may now or hereafter have to the laying of venue of any such suit, action or proceeding in any such federal or New York State court and irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of any such suit, action or proceeding.

(c) Each of the parties hereto irrevocably waives the right to object, with respect to such claim, suit, action or proceeding brought in any such court, that such court does not have jurisdiction over it.

(d) Each of the parties hereto agrees, to the fullest extent it may effectively do so under applicable law, that a final judgment in any suit, action or proceeding of the nature referred to in paragraph (a) above brought in any such court shall be conclusive and binding upon such party and may be enforced in other jurisdictions by suit on the judgment or in any manner provided by law.

(e) **EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR THE ACTIONS OF ANY ARRANGER, THE ADMINISTRATIVE AGENT, OR ANY LENDER IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT THEREOF.**

13.12 Appointment of Agent for Service of Process .

(a) The Credit Parties hereby irrevocably appoint CT Corporation System, with an office on the date hereof at 111 Eighth Avenue, 13th Floor, New York, New York 10011, as its agent (the "Process Agent") to receive on behalf of itself and its property, service of copies of the summons and complaint and any other process which may be served in any such action or proceeding brought in any New York State or federal court sitting in New York City and designates such domicile as the conventional domicile to receive notices hereunder and under the Transaction Documents. The Borrower and each Guarantor hereby appoints as its conventional domicile exclusively to receive any of the notices and service of process, the domicile of the Process Agent mentioned above or any other domicile notified in writing by the Process Agent to the Borrower, the Administrative Agent or any Lender. Such service may be made by delivering a copy of such process to any Credit Party in care of the Process Agent at its address specified above, and the Credit Parties hereby authorize and direct the Process Agent to accept

such service on their behalf. The appointment of the Process Agent shall be irrevocable until the appointment of a successor Process Agent. If the Process Agent fails to accept such appointment on or prior to the Conversion Date, the Credit Parties agree to promptly appoint an alternate Process Agent reasonably acceptable to the Administrative Agent with an office in New York City. The Credit Parties further agree to promptly and irrevocably appoint a successor Process Agent in New York City prior to the termination for any reason of the appointment of the initial Process Agent.

(b) Nothing in Section 13.11 or in this Section 13.12 shall affect the right of any party hereto to serve process in any manner permitted by law or limit any right that any party hereto may have to enforce in any lawful manner a judgment obtained in one jurisdiction in any other jurisdiction.

13.13 Waiver of Sovereign Immunity. To the extent that a Credit Party has or hereafter may acquire 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, or otherwise) with respect to itself or its property, the Credit Party hereby irrevocably waives such immunity in respect of its obligations hereunder to the extent permitted by applicable law. Without limiting the generality of the foregoing, the Credit Parties agree that the waivers set forth in this Section 13.13 shall have force and effect to the fullest extent permitted under the Foreign Sovereign Immunities Act of 1976 of the United States and are intended to be irrevocable for purposes of such Foreign Sovereign Immunities Act.

13.14 Judgment Currency.

(a) All payments made under this Agreement and the other Transaction Documents shall be made in Dollars. If for the purposes of obtaining judgment in any court it is necessary to convert a sum due from the Borrower in Dollars into another currency, the parties hereto agree to the fullest extent that they may legally and effectively do so that the rate of exchange used shall be that at which in accordance with normal banking procedures (based on quotations from four major dealers in the relevant market) the Administrative Agent or each Lender, as the case may be, could purchase Dollars with such currency at or about 10:00 a.m. (New York City time) on the Business Day preceding that on which final judgment is given.

(b) The Obligations in respect of any sum due to any Lender or the Administrative Agent hereunder or under any other Transaction Document shall, to the extent permitted by applicable law notwithstanding any judgment expressed in a currency other than Dollars, be discharged only to the extent that on the Business Day following receipt by such Lender or the Administrative Agent of any sum adjudged to be so due in such other currency such Lender or the Administrative Agent may in accordance with normal banking procedures purchase Dollars with such other currency. If the amount of Dollars so purchased is less than the sum originally due to such Lender or the Administrative Agent, the Credit Parties agree, to the fullest extent it may legally do so, as a separate obligation and notwithstanding any such judgment, to indemnify such Lender or the Administrative Agent against such resulting loss.

(c) Each Credit Party shall, to the fullest extent permitted by law, indemnify the Administrative Agent and each Lender against any loss incurred by the Administrative Agent or such Lender, as the case may be, as a result of any judgment or order being given or made for any amount due under this Agreement or any Maturity "A" Note and being expressed and paid in a currency (the " Judgment Currency") other than Dollars, and as a result of any variation between (i) the rate of exchange at which the Dollar amount is converted into the Judgment Currency for the purpose of such judgment or order and (ii) the spot rate of exchange in New York City at which the Administrative Agent or such Lender, as the case may be, on the date of payment of such judgment or order is able to purchase Dollars with the amount of the Judgment Currency actually received by the Administrative Agent or such Lender. If the amount of Dollars so purchased exceeds the amount originally to be paid to such Lender, such Lender agrees to pay to or for the account of the Borrower (with respect to payments made by the Borrower) and the Guarantors (with respect to payments made by the Guarantors) such excess; provided that such Lender shall not have any obligation to pay any such excess as long as a default by a Credit Party , in its obligations hereunder has occurred and is continuing, in which case such excess may be applied by such Lender to such obligations. The foregoing indemnity shall constitute a separate and independent obligation of each Credit Party and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid. The term "spot rate of exchange" shall include any premiums and costs of exchange payable in connection with the purchase of, or conversion into, United States dollars.

13.15 Counterparts. This Agreement may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. This Agreement and any communications, notices and exchanges of information pursuant to this Agreement, including signatures, may be delivered by facsimile and shall be treated in all manner and respects as an original document.

13.16 USA PATRIOT Act. The Lenders, to the extent that they are subject to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), hereby notify the Credit Parties that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies each Credit Party, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Act.

13.17 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions

hereof or affecting the validity or enforceability of such provision in any other jurisdiction, and the remaining portion of such provision and all other remaining provisions hereof will be construed to render them enforceable to the fullest extent permitted by law.

13.18 Survival of Agreements and Representations .

(a) All representations and warranties made herein or in any other Transaction Document shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

(b) The covenants and agreements contained in Sections 3.01, 3.03, 3.05, 3.06, 13.04, 13.05, 13.08, 13.09, 13.11, 13.12 and 13.14, and the obligations of the Lenders under Section 11.07 shall survive the payment of all Obligations and, in the case of any Lender that may assign any interest in its commitment or obligations hereunder, with respect to matters occurring before such assignment, shall survive the making of such assignment to the extent any claim arising thereunder relates to any period prior to such assignment, notwithstanding that such assigning Lender may cease to be a "Lender" hereunder.

13.19 No Novation. The parties intend that the conversion of the Dutch Loans shall not constitute a novation of the obligations of the Credit Parties with respect to the Dutch Loans.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

NEW SUNWARD HOLDING B.V.,
as Borrower

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-Fact

CEMEX S.A.B. DE C.V.,
as Guarantor

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-Fact

CEMEX MÉXICO, S.A. DE C.V.,
as Guarantor

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-Fact

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

ING CAPITAL LLC,
as Administrative Agent

By: /s/ Vicente M. Leon
Name: Vicente M. Leon
Title: Director

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

HSBC SECURITIES (USA) INC.,
as Sole Structuring Agent, Joint Lead
Arranger and Joint Bookrunner

By: /s/ Karen L. Giles
Name: Karen L. Giles
Title: Senior Vice President

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

CAJA DE AHORROS DE
MONTEPIEDAD DE MADRID MIAMI AGENCY,
as Mandated Lead Arranger and Lender

By: /s/ Manuel Nuñez
Name: Manuel Nuñez
Title: General Manager

By: /s/ Pablo Hernandez
Name: Pablo Hernandez
Title: Head of Capital Markets & IFIs

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

BANCO SANTANDER, S.A.,
as Joint Lead Arranger, Joint Bookrunner
and a Lender

By: /s/ Javier Vijedo
Name: Javier Vijedo
Title: Executive Director

By: /s/ Juan de la [illegible]
Name: Juan de la [illegible]
Title: Associate

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

HSBC MEXICO, S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC, ACTING THROUGH ITS GRAND CAYMAN BRANCH,
as a Lender

By: /s/ Juan Carlos Chavez Sevilla
Name: Juan Carlos Chavez Sevilla
Title: Attorney in Fact

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

THE ROYAL BANK OF SCOTLAND PLC,
as a Joint Lead Arranger, Joint Bookrunner
and a Lender

By: /s/ Guillermo Poggio
Name: Guillermo Poggio
Title:

By: /s/ Antonio [illegible]
Name: Antonio [illegible]
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

ING BANK, N.V., ACTING THROUGH
ITS CURACAO BRANCH,
as a Mandated Lead Arranger and a Lender

By: /s/ Remco Gaanderse
Name: Remco Gaanderse
Title: Country Manager

By: /s/ H.F.J. (Freddy) ten Holt
Name: H.F.J. (Freddy) ten Holt
Title: Chief Financial Officer

SCHEDULE 2.01(a)

Commitments

Lender	Amount (in USD)	Percentage
Banco Santander, S.A.	$ 125,000,000	23.8%
HSBC Mexico, S.A., Institución de Banca Multiple, Grupo Financiero HSBC, *acting through its Grand Cayman branch*	$ 125,000,000	23.8%
The Royal Bank of Scotland PLC	$ 125,000,000	23.8%
Caja de Ahorros y Monte de Piedad de Madrid Miami Agency	$ 75,000,000	14.3%
ING Bank, N.V., *acting through its Curacao branch*	$ 75,000,000	14.3%
TOTAL:	$ 525,000,000	100%

SCHEDULE 2.01(b)

Lending Offices

Lender	Lending Offices
Banco Santander, S.A.	Banco Santander, S.A. Ciudad Grupo Santander Avenida de Cantabria s/n Admón. Créditos Sindicados Edificio Marisma – Planta Baja 28660 Boadilla del Monte – Madrid (Spain) Attention: José Manuel Llorente or Álvaro del Villar Telephone: +34 91 289 30 11 / 12 Fax: +34 91 257 11 64 / 65
Caja de Ahorros y Monte de Piedad de Madrid Miami Agency	701 Brickell Ave, Suite 2000 Miami, FL 33131 Attention: Jesus Miramon Telephone: +1 (305) 371-3833 Fax: +1 (305) 371-4243
HSBC Mexico, S.A., Institución de Banca Multiple, Grupo Financiero HSBC, *acting through its Grand Cayman branch*	Reforma 347 Piso 12 Oficina 3. Col. Cuauhtemoc. C.P. 06500 México City, México Attention: Cordelia Gonzalez Telephone: +52 (81) 8319-2229 Fax: +52 (81) 8319-2349
ING Bank, N.V., *acting through its Curacao branch*	ING Bank, N. V.-Curaçao Branch Suyen Plaate-Felipa Credit Administration ING Bank N.V. Curaçao Branch Kaya W.F.G. (Jombi) Mensing 14 P.O.Box 3895, Curaçao, Netherlands Antilles T: + 599 9 4327269 F: + 599 9 4327502 E: suyen.felipa@americas.ing.com
The Royal Bank of Scotland PLC	36 St. Andrew Square, Edinburgh EH2 2YB Scotland Telephone: +44 (207) 672-6309 Fax: +44 (207) 085-4584

SCHEDULE 2.01(c)

Notice Addresses

Party	Notice Address
New Sunward Holding B.V., as BORROWER	Riverstate Building Amsteldijk 166 1079 LH Amsterdam The Netherlands Fax: +31 (0) 20-644 40 95
CEMEX, S.A.B. de C.V., as GUARANTOR	CEMEX, S.A.B. de C.V. Ave. Ricardo Margáin Zozaya #325 Col. Valle del Campestre Garza García, Nuevo León México 66265 Attention: CEMEX Back-Office Telephone: +52 (818) 888-4635, 4113, 4093 Fax: +52 (818) 888-4519
CEMEX México, S.A. de C.V., as GUARANTOR	CEMEX, S.A.B. de C.V. Ave. Ricardo Margáin Zozaya #325 Col. Valle del Campestre Garza García, Nuevo León México 66265 Attention: CEMEX Back-Office Telephone: +52 (818) 888-4635, 4113, 4093 Fax: +52 (818) 888-4519
ING Capital LLC, as ADMINISTRATIVE AGENT	1325 Avenue of the Americas New York, NY 10019 USA Attention: Soo Lee Telephone: +1 (646) 424-8236 Fax: +1 (646) 424-8223
HSBC Securities (USA) Inc., as SOLE STRUCTURING AGENT, JOINT LEAD ARRANGER and JOINT BOOKRUNNER	452 Fifth Avenue New York, NY 10018 USA Attention: Karen Giles Telephone: +1 (212) 525-3652

Party	Notice Address
Banco Santander, S.A., as JOINT LEAD ARRANGER and JOINT BOOKRUNNER	Banco Santander, S.A. Ciudad Grupo Santander Avenida de Cantabria s/n Admón. Créditos Sindicados Edificio Encinar – Primera Planta 28660 Boadilla del Monte – Madrid (**Spain**) Attention: José Luis Gómez Solórzano Telephone: +34 91 289 15 82 Fax: +34 91 257 1617 **CC:** Banco Santander S.A. Prol. Paseo de la Reforma No. 550 Mod. 110 Col. Lomas de Santa Fe, 01219 **México**, DF Attention: Wade A. Kit Telephone: +52 (55) 5257-8520 Fax: +52 (55) 5269-1824
The Royal Bank of Scotland PLC, as JOINT LEAD ARRANGER and JOINT BOOKRUNNER	C/ José Ortega y Gasset, 7, 28006 Madrid, Spain Attention: Franciso Serrat Telephone: +34 (91) 438 52 25 Fax: +34 (91) 438 53 07
Caja de Ahorros y Monte de Piedad de Madrid Miami Agency	701 Brickell Ave, Ste. 2000 Miami, FL 33131 Attention: Jesus Miramon Telephone: +1 (305) 371-3833 Fax: +1 (305) 371-4243
HSBC Mexico, S.A., Institución de Banca Multiple, Grupo Financiero HSBC, *acting through its Grand Cayman branch*, as LENDER	Blvd. Díaz Ordaz #123 Pte. Torre Sur, Piso 5 Col. Santa Maria, C.P. 64650 Monterrey, M.L. México Attention: Cordelia Gonzalez Telephone: +52 (81) 8319-2229 Fax: +52 (81) 8319-2349
ING Bank, N.V., *acting through its Curacao branch*	ING Bank, N.V., Rep. Office (Mexico City) Bosque de Alisos 45 B Bosques de las Lomas, 05120 México D.F. Attention: Fernanda Hurtado Telephone: +52 (55) 5258-2197

Party	Notice Address
	Fax: +52 (55) 5259-2701 E-mail: Fernanda.Hurtado@Americas.ing.com

SCHEDULE 8.02(e)

LIEN SCHEDULE

(Figures in Millions, USD)

NAME OF CEMEX SUBSIDIARY	COUNTERPARTY	LIEN CONCEPT	Nov-08	AGREEMENT TYPE
CEMEX, Inc.	Hampton	Land related with a Promissory Note	$ 0.033	Promissory Note between Mr. Paul E. Hampton, Jr. and wife and Cemex, Inc., dated October 31, 1985.
RMC Beton Śląsk Sp. z o.o.	SG Equipment Leasing Polska Sp. z o.o.	Plant Equipment Lien	$ 1.884	Equipment Leasing Agreement by and between SG Equipment Leasing Polska Sp. z o.o. RMC Beton Śląsk Sp. z o.o. and dated June 23rd, 2006.
CEMEX BETONS CENTRE et BRETAGNE	CITICAPITAL	Plant Equipment Lien	$ 0.007	Leasing Agreement CITICAPITAL - BETON DE FRANCE CENTRE ET BRETAGNE dated June 30, 2002.
CEMEX GRANULATS RHONE-MEDITERRANEE	SLIBAIL IMMOBILIER	Plant Equipment Lien	$ 0.698	Leasing Agreement by and between "SLIBAIL IMMOBILIER" and "MORRILLON CORVOL RHONE MEDITERRANEE dated July 24, 2000.
CEMEX BETONS NORD QUEST	SLIBAIL IMMOBILIER	Plant Equipment Lien	$ 0.123	Leasing Agreement by and between SLIBAIL IMMOBILIER - SAS BETON DE FRANCE NORMANDIE dated June 03 2002.
ETABLISSEMENT CHARROY	BAIL ACTEA	Plant Equipment Lien	$ 0.035	Leasing Agreement by and between BAIL ACTEA - SA Ets CHARROY dated August 28 2003.
Cemex SIA	Disko Leasing GmbH	Plant Equipment Lien	$ 0.083	Leasing Agreement between DISKO Leasing und Bank für Investitionsfinanzierung - Readymix Kies & Beton AG, dated March 1st, 2000.
Transbeton Lieferbeton Gesellschaft m.b.H.	Raiffeisenbank Bruck an der Mur eg. Gen.	Plant Equipment Lien	$ 2.964	Leasing agreement on movables entered by and between Raiffeisen-Leasing Mobilien und KFZ GmbH and Trans-Beton Ges.m.b.H. dated March 31, 2004.
Quarzsandwerk Wellmersdorf GmbH & Co. KG	Raiffeisenbank Obermain Nord eG	Land Lien	$ 0.037	Leasing Agreement by and between Quarzsandwerk Wellmersdorf GmbH & Co. KG and Raiffeisenbank Obermain Nord eG dated March 8, 1999.
CEMEX Kies Hamburg GmbH & Co. KG	Kreissparkasse Herzogfum Lauenburg	Land Lien	$ 0.247	Leasing Agreement Kreissparkasse Herzogfum Lauenburg - Wunder GmbH, Wunder Kiestransporte GmbH undGünter Wunder Baustoffhandel dated March 22, 1994.
Cemex UK Operations Limited	ING Lease (UK) Limited	Plant Equipment Lien	$ 18.483	Leasing Master Agreement by and between Kleinworth Benson Fleet Finance Limited and Rombus Materials Limited dated December 31, 1997. Assignment and Continuation Schedule dated September 30, 2005 between ING Lease Fleet Finance Limited and Cemex UK Operations Ltd.

NAME OF CEMEX SUBSIDIARY	COUNTERPARTY	LIEN CONCEPT	Nov-08	AGREEMENT TYPE
Cemex UK Operations Limited	**Lloyds TSB Asset Finance**	**Plant Equipment Lien**	**$ 2.948**	**Lease Agreement by and between The Rugby Group PLC and UDT Budget Leasing Limited dated 21 of December 1998.**
RMC Beton Śląsk Sp. z o.o.	**Bankowy Fundusz Leasingowy S.A.**	**Plant Equipment Lien**	**$ 0.017**	**Leasing Agreement by and between Bankowy Fundusz Leasingowy, S.A. and RMC Beton Śląsk Sp. z o.o. dated March 11th, 2008.**
Cemex S.A.B. de C.V. and Subsidiaries	**Different Banks**	**Cash Collateral**	**$ 693.412**	**ISDA Agreements Different Banks Regarding Margin Calls in Derivatives Instruments**
Cemex S.A.B. de C.V. and Subsidiaries	**Banco Nacional de Comercio Exterior**	**Cemex, S.A.B. de C.V. and Cementos Chihuahua, S.A.B. de C.V. shares**	**$ 250.000**	**Credit Agreement entered on October 14, 2008 Secured with a Stock Pledge**
Cemex S.A.B.de C.V. and Cemex México, S.A. de C.V.	**Nacional Financiera S.N.C.,**	**Cemex México's headquarters Edificio Constitución # 444 in Monterrey, N.L.**	**$ 52.985**	**Credit Agreement to issue the government guaranty (aval) on Cemex' short term Certificados Bursátiles entered on October 22, 2008.**
		Total	**$ 1,023.956**	

SCHEDULE 8.04

Qualified Receivables Transactions

	Description	Counterparty	Date	Currency	Amount in Million	Amount in USD million	Maturity
CEMEX France S.A.S.	Amendent and Restated Receivables Assignment Agreement (as amended)	ING Bank (France) S.A.	May 31, 2006	EURO	160,000,000	201,840,000	May 31, 2009
Cemex Inc.	Amended and Restated Receivables Purchase Agreement (as amended)	JP Morgan Chase Bank, N.A./ Lloyds TSB Bank plc	March 20, 2008	USD	500,000,000	500,000,000	March 20, 2009
Cemex Mexico, S.A. de C.V.	Agreement for the Sale and Transfer of Ownership of Designated Receivables	WLB Funding, S.A. de C.V., SOFOM, E.N.R.	January 9, 2008	MXN	2,298,000,000	168,946,985	January 9, 2009
Cemex España, S.A.	Amended and Restated Receivables Purchase Agreement (as amended)	WestLB AG	May 9, 2006	EURO	300,000,000	378,450,000	May 9, 2011
TOTAL						**1,249,236,985**	

Exchange rates as of Dec 1, 2008 to be updated one day before agreement is entered

US$/Euro	1.2615
US$/MXN	0.0735

EXECUTION VERSION
Exhibit A to Maturity
Loan "A" Agreement

FORM OF MATURITY "A" NOTE

U.S.$ _____ Date _____
New York, New York

FOR VALUE RECEIVED, the undersigned, NEW SUNWARD HOLDING B.V., a private company with limited liability formed under the laws of The Netherlands with its corporate seat in Amsterdam, The Netherlands (the "Borrower"), unconditionally promises to pay, without setoff or counterclaim, to the order of (the "Lender") on the Maturity Date, as defined in the Loan Agreement (as defined below), at the office of the Administrative Agent, in lawful money of the United States of America and in immediately available funds, the principal amount of Dollars (U.S.$) or, if less, the aggregate unpaid principal amount of the Loan made by the Lender to the undersigned pursuant to the Loan Agreement that is then due and. payable to the Lender pursuant thereto. The undersigned further unconditionally agrees to pay, without setoff or counterclaim, interest in like money at such office from the date hereof until paid in full on the unpaid principal amount hereof from time to time outstanding at the applicable interest rate per annum determined as provided in, and payable in accordance with, the Loan Agreement. The Lender is authorized to record the date and amount of the Loan made by the Lender pursuant to the Loan Agreement, the date and amount of each repayment of principal hereof, the date of each continuation pursuant to Section 2.01 (e) of the Loan Agreement and the principal amount subject thereto and the interest rate and interest period in respect thereto on the schedules annexed hereto and made a part hereof or on any other record customarily maintained by the Lender with respect to this Maturity "A" Note and any such recordation shall constitute prima facie evidence of the accuracy of the information so recorded; provided, however, that the failure of the Lender to make such recordation (or any error in such recordation) shall not affect the obligations of the Borrower hereunder or under the Loan Agreement.

This Maturity "A" Note is one of the Maturity "A" Notes referred to in the Senior Unsecured Maturity Loan "A" Agreement, dated as of [•], among the Borrower, the Guarantors, the several Lenders party thereto, HSBC Securities (USA) Inc., as Sole Structuring Agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland PLC, as Joint Lead Arrangers and Joint Bookrunners, and ING Capital LLC as Administrative Agent (as the same may from time to time be amended, supplemented or otherwise modified, the " Loan Agreement"; terms defined therein being used herein as so defined), and is entitled to the benefits thereof and is subject to optional and mandatory prepayment in whole or in part as provided therein.

Upon the occurrence of anyone or more of the Events of Default specified in the Loan Agreement, all amounts remaining unpaid on this Maturity "A" Note shall become, or may be declared to be, immediately due and payable, all as provided therein.

The Borrower agrees to pay all reasonable and documented, out-of-pocket costs and expenses incurred by the Lender in connection with the enforcement of and/or preservation of any rights under

the Loan Agreement, the other Transaction Documents and this Maturity "A" Note (whether through negotiations, legal proceedings or otherwise), including the reasonable fees and reasonable and documented out-of-pocket expenses of special Dutch, Mexican, and New York counsel to the Lender.

Each Credit Party hereby irrevocably and unconditionally submits for itself and its property in any legal action or proceeding relating to this Maturity "A" Note and the Loan Agreement or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court located in the Borough of Manhattan in New York City and any appellate court thereof, to the jurisdiction of any competent court in the place of its corporate domicile and any appellate courts thereof, and consents that any such suit, action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the laying of venue of any such suit, action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same. Each Credit Party hereby irrevocably agrees that service of all writs, process and summonses in any such suit, action or proceeding brought in the State of New York may be made upon CT Corporation System having offices on the date hereof at 111 Eighth Avenue, 13th Floor, New York, New York 10011, U.S.A. (the "Process Agent"), and each Credit Party hereby irrevocably appoints the Process 'Agent as its authorized agent to accept such service of any and all such writs, process and summonses, designates such domicile as the conventional domicile to receive notices and agrees that the failure of the Process Agent to give any notice of any such service of process to each Credit Party shall not impair or affect the validity of such service or of any judgment based thereon.

The obligations of the Borrower hereunder to make payments in Dollars shall not be discharged or satisfied by any tender or recovery pursuant to any judgment expressed in or converted into any other currency except to the extent that such tender or recovery results in the effective receipt by the Lender of the full amount of Dollars payable hereunder and the Borrower shall be obligated to indemnify the Lender (and the Lender shall have an additional legal claim) for any difference between such full amount and the amount effectively received by the Lender pursuant to any such tender or recovery. The Lender's determination of amounts effectively received by it shall be presumptively correct in the absence of manifest error.

To the extent that' the . Borrower has or hereafter may acquire 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) with respect to itself or its property, the Borrower hereby irrevocably waives such immunity in respect of its obligations under this Maturity "A" Note and the other Transaction Documents. The foregoing waiver and consent are intended to be effective to the fullest extent now or hereafter permitted by applicable law of any 3 jurisdiction in which any suit, action or proceeding with respect to this Maturity "A" Note may be commenced.

THIS MATURITY "A" NOTE SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. NEW SUNWARD HOLDING B.V.

NEW SUNWARD HOLDINGS B.V.

By: _____
Title: _____

Guaranteed:

CEMEX, S.A.B. de C.V.,
in its capacity as Guarantor
Under Article IX of the Loan Agreement

By: _____
Title: _____

Guaranteed:

CEMEX MÉXICO, S.A. de C.V.,
in its capacity as Guarantor
Under Article IX of the Loan Agreement

By: _____
Title: _____

LOANS

Date	Amount of Loan	Interest Period and Interest Rate Applicable Thereto	Amount of Principal Repaid	Notation Made By

EXECUTION VERSION

EXHIBIT B

FORM OF NOTICE OF CONTINUATION

IN G Capital LLC,
as Administrative Agent
[ ]
[ ]
[ ]

Ladies and Gentlemen:

The undersigned, New Sunward Holding, B.V. (the "Borrower"), refers to the Senior Unsecured Maturity Loan "A" Agreement, dated as of June [•], 2008, among the Borrower, CEMEX, S.A.B. de C.V., as Guarantor, CEMEX Mexico, S.A. de C.V., as Guarantor, the Lenders party thereto, ING Capital LLC, as Administrative Agent, HSBC Securities (USA) Inc., as Sole Structuring Agent, and HSBC Securities (USA) Inc., Banco Santander, S.A. and The Royal Bank of Scotland PLC, as Joint Lead Arrangers and Joint Lead Bookrunners (as the same may be amended, supplemented or otherwise modified from time to time, the "Loan Agreement"), and hereby gives you notice, irrevocably, pursuant to Section 2.01(e) of the Loan Agreement, that the undersigned hereby requests to continue the borrowing of the Loans referred to below. In regard to that request, the undersigned sets forth below the information relating to such continuation (the "Proposed Continuation") as required by Section 2.01(e) of the Loan Agreement:

(i) The Proposed Continuation relates to the borrowing of the Loans originally made on [e],200[e] (the "Outstanding Borrowing") in the principal amount of [e] and currently maintained as a borrowing of Loans with an Interest Period ending on [,].

(ii) The Business Day of the Proposed Continuation is [•]. [1]

(iii) The Outstanding Borrowing shall be continued as a borrowing of Loans with an Interest Period of [ ].

[1] Shall be a Business Day at least three Business Days after the date hereof; provided, that such notice shall be deemed to have been given on a certain day only if given before 10:00 a.m. (New York City time) on such day.

Very truly yours,

NEW SUNWARD HOLDING, B.V.

By: _____
Name:
Title:

EXECUTION VERSION

EXHIBIT C

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (the " Assignment and Assumption"), dated , is entered into by and between (the "Assignor") and (the"Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Senior Unsecured Maturity Loan "A" Agreement, dated as of [.], among New Sunward Holding B.V., as Borrower (the "Borrower"), the other Credit Parties party thereto, as Guarantors, the Lenders party thereto, ING Capital LLC, as Administrative Agent, HSBC Securities (USA) Inc., as Sole Structuring Agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland PLC, as Joint Lead Arrangers and Joint Bookrunners (as the same may be amended, supplemented or otherwise modified from time to time, the " Loan 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 Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Loan Agreement, as of the Effective Date set forth below, and established in accordance with Section 13.06 of the Loan Agreement (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Loan Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the facility identified below 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) against any Person, whether known or unknown, arising under or in connection with the Loan 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 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 pursuant to clauses (i) and (ii) above being referred to herein collectively as the " Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor:	_____
2. Assignee:	_____
3. Borrower:	New Sunward Holding B.V.
4. Administrative Agent:	lNG Capital LLC

Aggregate Amount of Assignor's Outstanding Loan	Amount of Loan Assigned	Proportionate Share Assigned
$	$	$

Effective Date:

[SIGNATURE PAGE FOLLOWS]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME]

By: _____
Name:
Title:

ASSIGNEE

[NAME]

By: _____
Name:
Title:

Address for Notices:

_____
_____
_____
_____
_____

Accepted:

ING Capital LLC,
as Administrative Agent

By: _____
Name:
Title:

[NEW SUNWARD HOLDING, B.V.,
the Borrower

By: _____
Name:
Title:

[CEMEX, S.A.B. de C.V.,
the Parent

By: _____
Name:
Title:

ANNEX 1

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (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; (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Loan Agreement or any other Transaction Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Transaction Documents, (iii) the financial condition of the Borrower, the other Credit Parties, any of their respective Subsidiaries or Affiliates or any other Person obligated in respect of the Loan Agreement or any other Transaction Document or (iv) the performance or observance by the Borrowers, the other Credit Parties, any of their respective Subsidiaries or Affiliates or any other Person of any of their respective obligations under the Loan Agreement or any other Transaction Document and (c) notwithstanding being released from all obligations under the Loan Agreement, will make arrangements such that a replacement Dutch "A" Note is issued to the Assignee at the expense of the Assignee.

1.2 Assignee. The 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 and perform the obligations of a Lender under the Loan Agreement, (ii) it satisfies the requirements, if any, specified in the Loan Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Loan Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Loan Agreement and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Loan Agreement, duly completed and executed by the Assignee; (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the 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 Transaction Documents, and (ii) it will perform all of the obligations of the Transaction Documents, which by their terms are required to be performed by it as a Lender; and (c) appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under the Transaction Documents as are delegated to or otherwise conferred upon the Administrative Agent by the terms thereof, together with such powers as are reasonably incidental thereto.

2. Payments. From and after the Effective Date, the Borrower shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) for the account of **[the Assignor for amounts which have accrued prior to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date] [the Assignee]** .

3. Effect of Assignment. Upon the delivery of a fully executed original hereof to the Administrative Agent, as of the Effective Date, (i) the Assignee shall be a party to the Loan Agreement and, to the extent provided in this Assignment, shall have the rights and obligations of a Lender thereunder and under the other Transaction Documents and (ii) the Assignor shall, to the extent provided in this Assignment and Assumption, relinquish its rights and be released from its obligations under the Transaction Documents.

4. 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 and enforced in all respects in accordance with the laws of the State of New York.

Exhibit D

FORM OF OPINION OF SPECIAL NEW YORK COUNSEL TO THE CREDIT PARTIES

December 31, 2008

To the Administrative Agent and the
Banks listed on Schedule I hereto

Re: New Sunward Holding B.V. Senior Unsecured Maturity Loan "A" Agreement[2]

Ladies and Gentlemen:

We have acted as special New York counsel to New Sunward Holding B.V., a private company with limited liability formed under the laws of The Netherlands, with its corporate seat in Amsterdam, The Netherlands (the "Borrower"), CEMEX, S.A.B. de C.V., a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States (the "Parent"), and CEMEX México, S.A. de C.V., a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States ("CEMEX México" and, together with the Parent, each, a "Guarantor," and collectively, the "Guarantors"), in connection with the preparation, execution and delivery of the Senior Unsecured Maturity Loan "A" Agreement, dated as of the date hereof (the "Loan Agreement"), by and among the Borrower, each Guarantor, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, Caja de Madrid – Miami Agency and ING Bank, N.V. *acting through its Curacao branch*, each as mandated lead arranger, ING Capital LLC, as administrative agent, and the several Lenders party thereto and certain other agreements, instruments and documents related to the Loan Agreement. This opinion is being delivered pursuant to Section 4.02(a) of the Loan Agreement. For purposes of this opinion, the Borrower and the Guarantors are also referred to individually as a "Credit Party" and collectively as the "Credit Parties."

[2] SASMF will deliver this opinion at conversion

In rendering the opinions set forth herein, we have examined and relied on originals or copies of the following:

(a) the Loan Agreement;

(b) the form of Maturity "A" Note attached as Exhibit A to the Loan Agreement (the " Maturity "A" Notes");

(c) the certificates of Humberto Francisco Lozano Vargas, Corporate Financing Director of the Parent and principal financial officer of CEMEX México and the Borrower, attached as Exhibit A hereto, and Lic. Ramiro G. Villarreal Morales, General Counsel to each Credit Party, attached as Exhibit B hereto; and

(d) such other documents as we have deemed necessary or appropriate as a basis for the opinions set forth below.

In our examination we have assumed the genuineness of all signatures including endorsements, the legal capacity and competency of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. As to any facts relevant to this opinion which we did not independently establish or verify, we have relied upon statements and representations of the Credit Parties and their officers and other representatives and of public officials, including the facts and conclusions set forth therein.

We do not express any opinion as to the laws of any jurisdiction other than (i) the Applicable Laws of the State of New York, (ii) the Applicable Laws of the United States of America (including, without limitation, Regulations T, U and X of the Federal Reserve Board), and (iii) solely, for purposes of our opinion in paragraph 7 herein, the Investment Company Act of 1940, as amended. Insofar as the opinions expressed herein relate to matters governed by laws other than those set forth in the preceding sentence, we do not express any opinion as to the effect of such laws or as to the effect thereof on the opinions herein stated.

Capitalized terms used herein and not otherwise defined herein shall have the same meanings herein as ascribed thereto in the Loan Agreement. The Loan Agreement and the form of Maturity "A" Note attached as Exhibit A to the Loan Agreement shall hereinafter be referred to collectively as the "Transaction Agreements." "Applicable Laws" shall mean those laws, rules and regulations which, in our experience, are normally applicable to transactions of the type contemplated by the Transaction Agreements (other than the United States federal securities laws, state securities or blue sky laws, antifraud laws and the rules and regulations of the Financial Industry Regulatory Authority), without our having made any special investigation

as to the applicability of any specific law, rule or regulation, and which are not the subject of a specific opinion herein referring expressly to a particular law or laws. "Governmental Approval" means any consent, approval, license, authorization or validation of, or filing, recording or registration with, any governmental authority pursuant to the Applicable Laws of the State of New York. "Applicable Orders" means those orders or decrees of governmental authorities identified in the certificate attached as Exhibit B hereto. "Applicable Contracts" mean those agreements or instruments listed on Schedule II hereto. "Uniform Commercial Code" means the Uniform Commercial Code as in effect on the date hereof in the State of New York (without regard to laws referenced in Section 9-201 thereof).

Based upon the foregoing and subject to the limitations, qualifications, exceptions and assumptions set forth herein, we are of the opinion that:

1. The Loan Agreement constitutes the valid and binding obligation of each Credit Party enforceable against such Credit Party in accordance with its terms under the Applicable Laws of the State of New York.

2. The Maturity "A" Notes will constitute the valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their terms under the laws of the State of New York.

3. The execution and delivery by each Credit Party of each Transaction Agreement to which it is a party and the performance by the Credit Parties of their respective obligations thereunder, each in accordance with its terms, do not (i) constitute a violation of, or a default under, any Applicable Contracts or (ii) cause the creation of any security interest upon any property of the Credit Parties pursuant to the Applicable Contracts. We do not express any opinion, however, as to whether the execution, delivery or performance by the Credit Parties of the Transaction Agreements will constitute a violation of, or a default under, any covenant, restriction or provision with respect to financial ratios or tests or any aspect of the financial condition or results of operations of the respective Credit Parties. We call to your attention that certain of the Applicable Contracts are governed by laws other than those as to which we express our opinion. We do not express any opinion as to the effect of such other laws on the opinions herein stated.

4. Neither the execution, delivery or performance by each Credit Party of the Transaction Agreements to which such Credit Party is a party nor the compliance by such Credit Party with the terms and provisions thereof will contravene any provision of any Applicable Law of the State of New York or any Applicable Law of the United States of America.

5. No Governmental Approval, which has not been obtained or taken and is not in full force and effect, is required to authorize, or is required in connection with, the execution or delivery of any Transaction Agreement by each Credit Party party thereto or the enforceability of any Transaction Agreement against any Credit Party party thereto.

6. Neither the execution, delivery nor performance by each Credit Party of its respective obligations under the Transaction Agreements to which it is a party nor compliance by such Credit Party with the terms thereof will contravene any Applicable Order to which such Credit Party is subject.

7. Each Credit Party is not, and solely after giving effect to the loans made pursuant to the Transaction Agreements will not be, an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

Our opinions are subject to the following assumptions and qualifications:

(a) The Maturity "A" Notes will be executed in the form attached as Exhibit A to the Loan Agreement;

(b) enforcement may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium, receivership, conservatorship, or other laws, regulations and administrative orders affecting the rights of creditors of the Credit Parties and by general principles of equity (regardless of whether enforcement is sought in equity or at law);

(c) we have assumed that each Transaction Agreement constitutes the valid and binding obligation of each party to such Transaction Agreement (other than the Credit Parties to the extent expressly set forth herein) enforceable against such other party in accordance with its terms;

(d) we do not express any opinion as to the effect on the opinions expressed herein of (i) the compliance or non-compliance of any party (other than the Credit Parties to the extent expressly set forth herein) to the Transaction Agreements with any state, federal or other laws or regulations applicable to it or (ii) the legal or regulatory status or the nature of the business of any party (other than the Credit Parties to the extent expressly set forth herein);

(e) our opinion is subject to possible judicial action giving effect to governmental actions or foreign laws affecting creditors' rights;

(f) we do not express any opinion as to the enforceability of any rights to contribution or indemnification provided for in the Transaction Agreements which are violative of the public policy underlying any law, rule or regulation (including any federal or state securities law, rule or regulation);

(g) we do not express any opinion with respect to any provision of the Loan Agreement to the extent it authorizes or permits any purchaser of a participation interest or any branch or agency of any Lender to set-off or apply any deposit, property or indebtedness or the effect thereof on the opinions contained herein;

(h) we do not express any opinion on the enforceability of any provision in the Transaction Agreements purporting to prohibit, restrict or condition the assignment of rights under such Transaction Agreements to the extent such restriction on assignability is ineffective pursuant to the Uniform Commercial Code;

(i) in the case of the guaranty contained in Article IX of the Loan Agreement (the " Guaranty"), certain of the provisions, including waivers, with respect to the Guaranty are or may be unenforceable in whole or in part, but the inclusion of such provisions does not affect the validity of the guaranty, taken as a whole;

(j) we do not express any opinion as to the enforceability of Section 9.03(b) of the Loan Agreement to the extent that the same provides that the obligations of the Guarantors are absolute and unconditional irrespective of the invalidity or enforceability of such Loan Agreement against the Guarantor, but the existence of such provisions does not affect the validity of the guaranty;

(k) with respect to the enforceability of all obligations under the Transaction Agreements, we note that a U.S. federal court would award a judgment only in U.S. dollars and that a judgment of a court in the State of New York rendered in a currency other than the U.S. dollar would be converted into U.S. dollars at the rate of exchange prevailing on the date of entry of such judgment; further, we do not express any opinion as to the enforceability of the provisions of the Transaction Agreements providing for indemnity by any party thereto against any loss in obtaining the currency due to such party under the Transaction Agreements from a court judgment in a currency other than the U.S. dollar;

(l) we do not express any opinion as to the enforceability of any section of the Transaction Agreements to the extent it purports to waive any objection a person may have that a suit, action or proceeding has been brought in an inconvenient forum or a forum lacking subject matter jurisdiction;

(m) we have assumed that all conditions precedent contained in Article IV of the Loan Agreement, which conditions require the delivery of documents, evidence or other items satisfactory in form, scope and/or substance to the Administrative Agent or the satisfaction of which is otherwise in the discretion or control of the Administrative Agent have been, or contemporaneously with the delivery hereof will be, fully satisfied or waived;

(n) to the extent that any opinion relates to the enforceability of the choice of New York law and choice of New York forum provisions of the Transaction Agreements, our opinion is rendered in reliance upon N.Y. Gen. Oblig. Law §§ 5-1401, 5-1402 (McKinney 2001) and N.Y. CPLR 327(b) (McKinney 2001) and is subject to the qualifications that such enforceability may be limited by public policy considerations of any jurisdiction, other than the courts of the State of New York, in which enforcement of such provisions, or of a judgment upon an agreement containing such provisions, is sought;

(o) in rendering the opinions expressed above we have also assumed, without independent investigation or verification of any kind, that the choice of New York law to govern the Transaction Agreements, which are stated therein to be governed thereby, is legal and valid under the laws of other applicable jurisdictions and that insofar as any obligation under any Transaction Agreement is to be performed in any jurisdiction outside the United States of America its performance will not be illegal or ineffective by virtue of the law of that jurisdiction;

(p) we call to your attention that federal courts of the United States of America located in New York could decline to hear a case on grounds of forum non-conveniens or any other doctrine limiting the availability of such courts in New York as a forum for the resolution of disputes not having a sufficient nexus to New York, irrespective of any agreement between the parties;

(q) we do not express any opinions as to the subject matter jurisdiction of the federal courts of the United States of America in any action arising out of or relating to the Transaction Agreements; and

(r) in rendering the opinions expressed above, we note that the various obligations of the Credit Parties in respect of the Transaction Agreements implicate the laws of Mexico and The Netherlands and, accordingly, such obligations may be affected by such laws, as to which we do not express any opinion.

In rendering the foregoing opinions, we have assumed, with your consent, that:

(a) the Borrower is validly existing and in good standing as a private company with limited liability under the laws of The Netherlands; the Parent is validly existing and in good standing as a *sociedad anónima bursátil de capital variable* under the laws of the United Mexican States; and CEMEX México is validly existing and in good standing as a *sociedad anónima de capital variable* under the laws of the United Mexican States;

(b) each Credit Party has the power and authority to execute, deliver and perform all obligations under each Transaction Agreement to which it is a party, and the execution and delivery of each Transaction Agreement to which it is a party and the consummation by such Credit Party of the transactions contemplated thereby have been duly authorized by all requisite action on the part of such Credit Party; each Transaction Agreement has been duly executed and delivered by each Credit Party party thereto;

(c) the execution, delivery and performance by each Credit Party of any such Credit Party's obligations under the Transaction Agreements to which such Credit Party is a party do not and will not conflict with, contravene, violate or constitute a default under (i) the organizational documents of such Credit Party, (ii) any lease, indenture, instrument or other agreement to which such Credit Party or such Credit Party's property is subject (other than the Applicable Contracts as to which we express our opinion in paragraph 3 herein), (iii) any rule,

law or regulation to which such Credit Party is subject (other than Applicable Laws of the State of New York and Applicable Laws of the United States of America as to which we express our opinion in paragraph 4 herein) or (iv) any judicial or administrative order or decree of any governmental authority (other than Applicable Orders as to which we express our opinion in paragraph 6 herein); and

(d) no authorization, consent or other approval of, notice to or filing with any court, governmental authority or regulatory body (other than Governmental Approvals as to which we express our opinion in paragraph 5 herein) is required to authorize or is required in connection with the execution and delivery by or enforceability against each Credit Party of any Transaction Agreement to which such Credit Party is a party or the transactions contemplated thereby.

We understand that you are separately receiving opinions, with respect to certain of the foregoing assumptions from Lic. Ramiro G. Villarreal, General Counsel of each Credit Party, and Warendorf, special Dutch counsel to the Borrower, and we are advised that such opinions contain qualifications. Our opinions herein stated are based on the assumptions specified above and we do not express any opinion as to the effect on the opinions herein stated of the qualifications contained in such other opinions.

This opinion is being furnished only to you in connection with the Transaction Agreements and is solely for your benefit and is not to be used, circulated, quoted or otherwise referred to for any other purpose or relied upon by any other person or entity for any purpose without our prior written consent; provided that (i) Lic. Ramiro G. Villarreal and Warendorf may rely upon this opinion as to matters of the laws of the State of New York and of the United States of America and in rendering their opinions in connection with the Loan Agreement and (ii) any Person who becomes a Lender under Section 13.06(b) of the Loan Agreement after the date hereof may rely on this opinion as if it were originally addressed to such Lender and delivered on the date hereof. We do not assume any obligation to revise or supplement this opinion letter should any factual matters change or other transactions occur or should any laws or regulations be changed by legislative or regulatory action, judicial decision or otherwise.

Very truly yours,

HSBC Securities (USA) Inc., as Sole Structuring Agent, Joint Lead Arranger and Joint Bookrunner

Banco Santander, S.A., as Joint Lead Arranger, Joint Bookrunner and Lender

The Royal Bank of Scotland Plc, as Joint Lead Arranger, Joint Bookrunner and Lender

Caja de Madrid – Miami Agency, as Mandated Lead Arranger and Lender

ING Bank, N.V. *acting through its Curacao branch*, as Mandated Lead Arranger and Lender

HSBC Mexico, S.A., Institución de Banca Multiple, Grupo Financiero HSBC, *acting through its Grand Cayman branch*, as Lender

ING Capital LLC, as Administrative Agent

Applicable Contracts

(1) Indenture, dated as of October 1, 1999, among CEMEX, S.A.B. de C.V. (formerly, CEMEX, S.A. de C.V., "CEMEX"), as issuer, CEMEX México, S.A. de C.V. (formerly, Serto Construcciones, S.A. de C.V. and successor guarantor to TOLMEX, S.A. de C.V., Cemento Portland Nacional, S.A. de C.V., and Cementos Mexicanos, S.A. de C.V., ("CEMEX México") and Empresas Tolteca de México, S.A. de C.V. ("Empresas Tolteca"), as guarantors, and U.S. Bank Trust National Association, as trustee, relating to U.S.$200,000,000 original aggregate principal amount of 9.625% Notes due 2009 of CEMEX, as amended by the First Supplemental Indenture, dated as of April 17, 2002, the Second Supplemental Indenture, dated as of October 4, 2004, and the Third Supplemental Indenture, dated as of October 20, 2006.

(2) Credit Agreement, dated as of May 31, 2005, by and among CEMEX, as borrower, CEMEX México and Empresas Tolteca, as guarantors, the several lenders party thereto, Barclays Bank PLC, New York Branch, as administrative agent, Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner, for an aggregate principal amount of U.S.$1,200,000,000, as amended by Amendment No. 1 thereto, dated as of June 19, 2006, the Amendment and Waiver Agreement, dated as of November 30, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Limited Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of December 19, 2008.

(3) Amended and Restated Credit Agreement, dated as of June 6, 2005, by and among CEMEX, as borrower, CEMEX México and Empresas Tolteca, as guarantors, Barclays Bank PLC, New York Branch, as issuing bank and documentation agent, ING Bank N.V., as issuing bank, the several lenders party thereto, and Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint bookrunner, Citigroup Global Markets Inc., as joint bookrunner and syndication agent, and ING Capital LLC, as joint bookrunner and administrative agent, for an aggregate principal amount of U.S.$700,000,000, as amended by Amendment No. 1 thereto, dated as of June 21, 2006, the Amendment and Waiver Agreement, dated as of December 1, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of December 19, 2008.

(4) Amended and Restated Facilities Agreement*, dated as of December 19, 2008 for New Sunward Holding B.V. (" NSH") as borrower, CEMEX, CEMEX México and Empresas Tolteca as guarantors and Citibank, N.A. as agent.

(5) Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of U.S. $900,000,000 Callable Perpetual Dual-Currency Notes.

(6) Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of U.S. $350,000,000 Callable Perpetual Dual-Currency Notes.

(7) Note Indenture, dated as of February 12, 2007, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of U.S. $750,000,000 Callable Perpetual Dual-Currency Notes.

(8) Note Indenture, dated as of May 9, 2007, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of €730,000,000 Callable Perpetual Dual-Currency Notes.

(9) Credit Agreement, dated as of June 25, 2008, by and among CEMEX, CEMEX México and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch for an aggregate principal amount of U.S. $500,000,000, as amended by the First Amendment, dated as of December 19, 2008.

* The Facilities Agreement referred to in Item 4 is governed by English law.

[ATTACHED SEPARATELY]

Exhibit B to the
Opinion of Special Counsel

[ATTACHED SEPARATELY]

Exhibit E

FORM OF OPINION OF IN-HOUSE COUNSEL TO THE CREDIT PARTIES

December 31, 2008

To the Lenders listed on Schedule I hereto

Re: New Sunward Holding B.V. Senior Unsecured Maturity Loan "A" Agreement

Ladies and Gentlemen:

I am General Counsel for CEMEX, S.A.B. de C.V., a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States ("**Mexico**"), (the "**Parent**"), CEMEX México, S.A. de C.V., a *sociedad anónima de capital variable* organized and existing pursuant to the laws of Mexico ("**CEMEX Mexico**," and together with the Parent, the "**Guarantors**"), and New Sunward Holding B.V., a private company with limited liability formed under the laws of The Netherlands, with its corporate seat in Amsterdam, The Netherlands (the " **Borrower,**" and together with the Guarantors, the "**Credit Parties**"). This opinion is rendered to you pursuant to Section 4.01(b) of the Senior Unsecured Maturity Loan "A" Agreement (the "**Loan Agreement**"), dated as of the date hereof, by and among the Borrower, each Guarantor, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto. Capitalized terms used and not otherwise defined herein shall have the respective meanings ascribed thereto in the Loan Agreement.

In connection with the opinions expressed in this letter, I have examined and relied on originals or copies of the Loan Agreement and the form of Maturity "A" Note attached thereto as Exhibit A (the Loan Agreement together with the form of Maturity "A" Notes, the " **Loan Documents**").

In addition, I have examined originals or copies, certified or otherwise identified to my satisfaction, of such document, corporate records, certificates of public officials and other instruments and have conducted such other investigations of fact and law as I have deemed necessary or advisable for purposes of this opinion.

In rendering this opinion, I have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to me as originals, the conformity to original documents of all documents submitted to me as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. In making my examination of executed documents, I have assumed that the parties thereto (other than the Guarantors) had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties (other than the Guarantors) of such documents and the validity and binding effect thereof

on such parties. I have also assumed that each of the parties (other than the Guarantors) to the Loan Documents (as defined herein) has been duly organized and is validly existing in good standing, and has requisite legal status and legal capacity, under the laws of its jurisdiction of organization and that each of such parties has complied and will comply with all aspects of the laws of all relevant jurisdictions (including the laws of its jurisdiction of organization) in connection with the transactions contemplated by, and the performance of its obligations under, the Loan Documents, other than the laws of Mexico.

The opinions set forth below relate only to the laws and regulations of Mexico in force as of the date hereof. Insofar as the opinions expressed below relate to matters that are governed by laws and regulations other than the laws of Mexico, I have assumed the correctness of, and have not made independent examination of such matters.

Upon the basis of, and subject to, the foregoing qualifications and the limitations set forth herein, I am of the opinion that:

1. The Parent has been duly incorporated and is validly existing as a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) under the laws of Mexico and CEMEX Mexico has been duly incorporated and is validly existing as a stock corporation with variable capital (*sociedad anónima de capital variable*) under the laws of Mexico; and each Guarantor has all powers and all governmental licenses, permits and other approvals (except for such licenses, permits and approvals the absence of which will not have a Material Adverse Effect) to own its assets and carry on its business as now conducted and as proposed to be conducted.

2. Each Guarantor has full power, authority and legal right to execute and deliver the Transaction Documents and to perform and observe the terms and provisions thereof.

3. The Transaction Documents have been duly authorized, executed and delivered by each Guarantor, and, assuming due execution and delivery thereof by the other parties thereto, constitute valid and binding obligations of each Guarantor, enforceable against each Guarantor in accordance with their terms.

4. The execution, delivery and performance by each Guarantor of the Transaction Documents to which it is a party is permitted under its by-laws *(estatutos sociales)* and has been duly authorized by all necessary action and the execution, delivery and performance by each Guarantor of the Transaction Documents does not and will not (i) violate the provisions of any applicable law, decree or regulation of Mexico (or of any political subdivision thereof) or any order of any court, regulatory body or arbitral tribunal or of their respective *estatutos sociales* or other governing documents of the Guarantors or (ii) result in the breach of, or constitute a default under, or require any consent under, or result in or require the imposition of any lien on any of their respective present or future revenues or properties under, any agreement, instrument or other document to which either Guarantor is a party or by which either Guarantor or any of their respective assets may be bound or affected, except, in the case of (ii), any breach or default the occurrence of which, or any consent the failure of which to be obtained, or any lien the imposition of which, individually or in the aggregate would not have a Material Adverse Effect.

5. No consents, approvals, licenses or authorizations of, or filings or registrations with, any governmental body or regulatory or supervisory authority or agency (including without limitation any foreign exchange approvals or licenses relating to the repayment, purchase, sales or transfer out of Mexico of United States dollars immediately available at the place of payment) are required under applicable law, decree or regulations for the execution, delivery or performance by each Guarantor of the Transaction Documents.

6. The Transaction Documents to which each Guarantor is a party are in proper legal form under the laws of Mexico for the enforcement thereof against the Guarantors, as applicable, in Mexico, and there are no fees that should be paid, and no registration, notarization or other formalities required to be accomplished, for the validity, admissibility and enforceability of such Transaction Documents (other than those requirements listed in qualification (d) below).

7. Each individual named in the incumbency certificate of each Guarantor has sufficient power and authority to execute and deliver each Transaction Document on behalf of such Guarantor and his authority has not been revoked or limited in any manner.

8. Any suit, action or proceeding with respect to the Transaction Documents may be brought against each Guarantor, as applicable, in any court of Mexico specified in such documents.

9. Each Guarantor is subject to commercial law with respect to its obligations under the Transaction Documents, and the execution, delivery and performance by each Guarantor of the Transaction Documents constitute private and commercial acts rather than public or governmental acts; and neither of the Guarantors nor any of their respective properties are entitled to any right of immunity from suit, court jurisdiction, judgment, attachment (whether before or after judgment), set-off or execution with respect to each Guarantor's respective obligations under the Loan Documents.

10. Each Guarantor's submission to the jurisdiction of the United States District Court for the Southern District of New York and any New York State court located in the Borough of Manhattan in New York City (collectively, the "**New York Courts**") and to the jurisdiction of the courts of its corporate domicile in respect of actions initiated against it provided for in Section 13.11 of the Loan Agreement is valid and enforceable under the laws of Mexico.

11. The appointment of the Process Agent as each Guarantor's agent for service of process in New York is irrevocable and has been duly authorized, executed and delivered, and is a valid and binding appointment, and service of process made on the Process Agent at its domicile set forth in the Transaction Document pursuant thereto will constitute personal service upon each Guarantor, as applicable, under Mexican law.

12. The choice of New York law to govern each Transaction Document is, under the laws of Mexico, a valid and effective choice of law.

13. To the best of my knowledge, except for those matters previously disclosed to you in Schedule 5.06 to the Loan Agreement, there is no action, suit or proceeding at law, or in equity or by or before any court, governmental agency or authority or arbitral tribunal now pending or threatened against or affecting either Guarantor or any assets of either Guarantor, which, if adversely determined, would materially and adversely affect the business, consolidated results of operations or consolidated financial condition of such Guarantor, or would impair its ability to perform, or affect the validity or enforceability of, its respective obligations under the Transaction Documents.

14. The obligations of each Guarantor under the Loan Agreement and the Notes rank at least *pari passu* with the claims of all other unsecured creditors (other than those preferred by law).

15. It is not necessary under the laws of Mexico: (i) to enable the Lenders to enforce their respective rights under the Transaction Documents or (ii) by reason of the execution or delivery of the Transaction Document or the enforcement thereof, that the Lenders be licensed, qualified or entitled to carry on business in Mexico.

16. None of the Lenders, the Administrative Agent, the Structuring Agent nor any Joint Lead Arranger will be deemed resident, domiciled or, carrying on business in Mexico solely by reason of the execution, delivery, performance or enforcement of the Loan Agreement or any other Transaction Document.

17. There is no tax, levy, stamp duty, impost deduction, charge or withholding imposed by Mexico or any political subdivision thereof (i) on or by virtue of the execution, delivery, performance, enforcement or admissibility into evidence of any of the Transaction Documents or (ii) on any payment made by either Guarantors pursuant to any of the Transaction Documents, except that a withholding tax will be imposed by Mexico on payments of interest made by a Guarantor to a non-resident of Mexico for tax purposes. The Guarantors are permitted to pay additional sums under Section 3.01 of the Loan Agreement.

18. A final judgment obtained in a New York Court against either Guarantor and such Guarantor's respective assets situated in Mexico would be recognized and enforced by the courts of Mexico, and execution against such assets to satisfy a judgment could be obtained in Mexico, without re-examination of the issues pursuant to Articles 569 and 571 of the Mexican Federal Code of Civil Procedure and Article 1347A of the Mexican Commerce Code, which provide, *inter alia*, that any judgment rendered outside of Mexico may be enforced by Mexican Courts, *provided that*:

(i) such judgment is obtained in compliance with (a) all legal requirements of the jurisdiction of the court rendering such judgment, (b) all legal requirements of the Loan Agreement, and (c) formalities established pursuant to applicable international treaties;

(ii) such judgment is not rendered in a real action (acción real);

(iii) such judgment is final, non-appealable and authenticated by the appropriate governmental authorities, and is strictly for the payment of a certain sum of money, provided that, under Mexican Monetary Law, payments that should be made in Mexico in foreign currency, whether by agreement or upon a judgment of a Mexican Court, may be discharged in Mexican currency at a rate of exchange for such currency prevailing at the time of payment;

(iv) the court rendering such judgment is competent to render such judgment in accordance with applicable rules under international law, and such rules are compatible with the rules adopted under the Mexican Code of Commerce;

(v) service of process was made personally on each Guarantor, as applicable, or on the Process Agent, as applicable;

(vi) such judgment does not contravene Mexican public policy or laws;

(vii) the applicable procedure under the laws of Mexico with respect to the enforcement for foreign judgments (including the issuance of a letter rogatory by the competent authority of such jurisdiction requesting enforcement of such judgment and the certification of such judgment as authentic by the corresponding authorities of such jurisdiction in accordance with the laws thereof) is complied with;

(viii) the courts of such jurisdiction recognize the principles of reciprocity in connection with the enforcement of Mexican judgments in such jurisdiction; and

(ix) the cause of action in connection with which such judgment is rendered is not the same cause of action between the same parties that is pending before a Mexican court.

19. No foreign exchange controls are currently in effect in Mexico and no foreign exchange control authorizations by any governmental authority in Mexico are currently required for the execution, delivery and performance of any Loan Document and the transactions contemplated thereby.

This opinion is subject to the following qualifications:

a. Enforcement of the Transaction Documents may be limited by *concurso mercantil,* bankruptcy, insolvency, reorganization, moratorium and other similar laws or general principles of equity affecting the rights of creditors generally;

b. Labor claims, claims of tax authorities for unpaid taxes, social security quotas, worker's housing fund quotas, retirement fund quotas, as well as claims from secured or privileged creditors, will have priority over claims of the Lenders;

c. In the event that proceedings are brought in Mexico seeking performance of the obligations of the Guarantors in Mexico, pursuant to the Mexican Monetary Law, the Guarantors may discharge their obligations by paying any sums due in a currency other than Mexican currency, in Mexican currency at the rate of exchange prevailing in Mexico on the date when payment is made;

d. In the event that any legal proceedings are brought in the courts of Mexico, a Spanish translation of the documents required in such proceedings prepared by a court-approved translator would have to be approved by the court after the defendant has been given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents;

e. Provisions of the Loan Documents granting discretionary authority to the Lenders cannot be exercised in a manner inconsistent with relevant facts nor defeat any requirements from a competent authority to produce satisfactory evidence as to the basis of any determination; in addition, under Mexican law, each Guarantor will have the right to contest in court any notice or certificate of the Lenders purporting to be conclusive and binding;

f. Claims may become barred under the statutes of limitation, which are not waivable under Mexican law, or may become subject to defenses or set-off or counterclaim;

g. A Mexican court may stay proceedings held in such court if concurrent proceedings are being held elsewhere;

h. Under the laws of Mexico, the obligations of a guarantor are not independent from, and may not exceed, the obligations of the main obligor;

i. With respect to the provisions contained in the Loan Agreement in connection with service of process, it should be noted that service of process by mail does not constitute personal service of process under Mexican law and, since such service is considered to be a basic procedural requirement, if for purposes of proceedings outside Mexico service of process is made by mail, a final judgment based on such process would not be enforced by the courts of Mexico; and

j. We note that an obligation to pay interest on interest may not be enforceable in Mexico.

I have no reason to believe, nor do I believe, that any obligation under the Loan Agreement would violate or contravene Mexican public policy or laws or international treaties binding in Mexico.

I express no opinion in connection with Section 13.14 (Judgment Currency) of the Loan Agreement.

This opinion is furnished only to you in connection with the Transaction Documents and is solely for your benefit. Without my prior written consent, this opinion

may not be used or relied upon by, or assigned to, any other person for any purpose, except that (i) Skadden, Arps, Slate, Meagher and Flom, LLP may rely upon this opinion as to matters of the laws of Mexico in rendering their opinion pursuant to Section 4.02(a) of the Loan Agreement and (ii) any Person who becomes a Lender under Section 13.06(b) of the Loan Agreement after the date hereof may rely on this opinion as if it were originally addressed to such Lender and delivered on the date hereof. We do not assume any obligation to revise or supplement this opinion should any factual matters change or other transactions occur or should any laws or regulations be changed by legislative or regulatory action, judicial decision or otherwise.

Very truly yours,

Ramiro G. Villarreal Morales
General Counsel

Schedule I

List of Lenders

1. HSBC México, S.A., Institución de Banca Múltiple, Grupo Financiero HSBC, acting through its Grand Cayman Branch.
2. Banco Santander, S.A.
3. The Royal Bank of Scotland, PLC.
4. ING Bank N.V., acting through its Curacao Branch.
5. Caja de Ahorros y Monte de Piedad de Madrid - Miami Agency.

HSBC Securities (USA) Inc., as Sole Structuring Agent, Joint Lead Arranger and Joint Bookrunner

Banco Santander, S.A., as Joint Lead Arranger, Joint Bookrunner and Lender

The Royal Bank of Scotland PIc, as Joint Lead Arranger, Joint Bookrunner and Lender

Caja de Madrid - Miami Agency, as Mandated Lead Arranger and Lender

IN G Bank, N. V. acting through its Curacao branch, as Mandated Lead Arranger and Lender

HSBC Mexico, S.A., Institutci6n de Banca Multiple, Grupo Financiero HSBC, acting through its Grand Cayman branch, as Lender

ING Capital LLC, as Administrative Agent

Exhibit F

FORM OF OPINION OF DUTCH COUNSEL TO THE CREDIT PARTIES

To ING Capital LLC, as Administrative Agent and
the Lenders listed on Schedule 1 hereto

Date [ ] December 2008
Our ref. 08A C 101684
Subject New Sunward Holding B.V./ Senior Unsecured Maturity Loan "A" Agreement

Dear Sirs,

(1) We have acted as special Dutch counsel to New Sunward Holding B.V. (the "**Company**") in connection with a Senior Unsecured Maturity Loan "A" Agreement, dated as of the date hereof (the "**Maturity Loan "A" Agreement**"), by and among the Company, as Borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as Guarantors, HSBC Securities (USA) Inc., as Sole Structuring Agent, HSBC Securities (USA) Inc., Banco Santander, S.A. and The Royal Bank of Scotland PLC, as Joint Lead Arrangers and Joint Bookrunners, ING Capital LLC, as Administrative Agent, and the several lenders party thereto and certain other agreements, instruments and documents related to the Maturity Loan "A" Agreement.

(2) For purposes of this opinion, we have examined and relied on the documents listed in Schedule 2 and Schedule 3, which shall form part of this opinion. The documents listed in Schedule 2 are referred to as the "**Documents**" and the documents listed in Schedule 3 as the "**Certificates**."

Unless otherwise defined in this opinion or unless the context otherwise requires, words and expressions defined in the Maturity Loan "A" Agreement shall have the same meanings when used in this opinion. We understand that you require this opinion from us pursuant to Section 4.02 (c) of the Maturity Loan "A" Agreement.

In connection with such examination and in giving this opinion, we have assumed:

(b) the genuineness of the signatures to the Documents and the Certificates, the authenticity and completeness of the Documents and the Certificates submitted to us as originals, the conformity to the original documents of the Documents and the Certificates submitted to us as copies and the authenticity and completeness of these original documents;

(c) the legal capacity (*handelingsbekwaamheid*) of the natural persons acting on behalf of the parties, the due incorporation and valid existence of, the power and authority of, and the due authorisation and execution of the Documents and the power of attorney referred to in Schedule 3 paragraph c) by each of the parties thereto (other than the Company) under any applicable law (other than Dutch law);

(d) the validity, binding effect and enforceability of the Documents and the power of attorney referred to in Schedule 3 under the law of the State of New York;

(e) the accuracy, completeness, validity and binding effect of the Certificates (with the exception of the Articles) and the matters certified or evidenced thereby at the date hereof and any other relevant date; and

(f) for the duration of the Maturity Loan "A" Agreement the Company, under the Maturity Loan "A" Agreement, borrows exclusively from Lenders that qualify as professional market parties (*professionele marktpartijen*) within the meaning of the Financial Markets Supervision Act 2007 (*Wet op het financieel toezicht 2007*) (in reliance upon a letter dated 15 December 2006 issued by the Dutch Central Bank (*De Nederlandsche Bank N.V.*) this requirement can be considered satisfied if the amount borrowed by the Company from each existing or future Lender under the Maturity Loan "A" Agreement individually is not less than EUR 50,000 or its equivalent in any other currency).

This opinion is given only with respect to Dutch law as generally interpreted and applied by the Dutch courts at the date of this opinion. As to matters of fact we have relied on the Certificates and the representations and warranties contained in or made pursuant to the Documents and the Certificates. We do not express an opinion on the completeness or accuracy of the representations or warranties made by the parties to the Documents, matters of fact, matters of foreign law, international law, including, without limitation, the law of the European Union, and tax, anti-trust and competition law, except to the extent that those representations and warranties and matters of fact and law are explicitly covered by the opinions below. No opinion is given on commercial, accounting or non-legal matters or on the ability of the parties to meet their financial or other obligations under the Documents.

Based on and subject to the foregoing, and subject to the qualifications set out below and matters of fact, documents or events not disclosed to us, we express the following opinions:

1. The Company is duly incorporated and is validly existing under Dutch law as a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) and possesses the capacity to sue and to be sued in its own name.

2. The Extract does not reveal that the Company has been dissolved (*ontbonden*) or has been declared bankrupt (*failliet verklaard*) or that it has been granted a (provisional) suspension of payment ((*voorlopige*) *surséance van betaling verleend*) or any order for

the administration of the assets of the Company has been made (*onder bewind gesteld*), which has also been confirmed to us by telephone on the time and date hereof by the Court registry of the Civil Law Section (*sector civiel recht*) of the Amsterdam District Court and the Central Insolvency Register (*Centraal Insolventieregister*) (including the section on EU registration) on www.rechtspraak.nl.

3. The Company has the corporate power and capacity to execute the Documents, to perform its obligations thereunder and to consummate the transactions contemplated therein.

4. The Company has taken all necessary corporate action to authorise the execution of the Documents, the performance of its obligations thereunder and the consummation of the transactions contemplated therein.

5. Each of the Documents has been duly executed under applicable law on behalf of the Company by Humberto Lozano Vargas and/or Jaime Armando Chapa Gonzalez and/or Agustin de Jesus Blanco Garza individually and severally as attorney pursuant to the power of attorney referred to in Schedule 3 paragraph c) and constitutes valid and legally binding obligations of the Company enforceable in accordance with its terms and would be so treated in the Dutch courts. Each of those Documents is in proper form for its enforcement in the Dutch courts.

6. It is not necessary in order to ensure the validity, enforceability or admissibility in evidence of the Documents against the Company in the Dutch courts that those Documents or any other document in connection therewith be filed, registered of recorded with governmental, judicial or public bodies or authorities in The Netherlands or that any other action be taken in The Netherlands.

7. The execution by the Company of the Documents, the performance of its obligations thereunder and the consummation of the transactions contemplated therein do not conflict with or result in a violation of (i) any provision of the Articles of the Company; (ii) any existing provision of, or rule or regulation under, the law of The Netherlands, applicable to companies generally; or (iii) any judgment or order of any court or arbitrator or governmental or regulatory authority in The Netherlands.

8. No authorisations, consents, approvals, licences or exemptions from governmental, judicial or public bodies or authorities in The Netherlands are required for the execution of the Documents by the parties thereto, the performance of their respective obligations thereunder and the consummation of the transactions contemplated therein.

9. The obligations of the Company under the Documents will rank at least *pari passu* with all the other present or future unsecured and unsubordinated obligations of the Company, except for those obligations that have been accorded preferential rights by law and those obligations that are subject to rights of set-off or counterclaim.

10. The choice of the law of the State of New York to govern the Documents is a valid choice of law and the irrevocable submission thereunder by the Company to the non-exclusive jurisdiction of any state or federal court sitting in New York and the waiver of any objection to the venue of a proceeding in any such court, are valid and legally binding on the Company. This choice of law and this submission would be upheld by the Dutch courts.

11. In proceedings taken in The Netherlands, neither the Company nor any of its assets is immune from legal action or proceeding (including, without limitation, suit, attachment prior to judgment, execution or other legal process).

12. A final judgment rendered by a state or federal court sitting in New York would not automatically be enforceable in The Netherlands. However, a final judgment obtained in any such court (the "**NY Judgment**") that is not rendered by default and which is not subject to appeal or other means of contestation and is enforceable in New York with respect to the payment obligations of the Company under the Documents would generally be upheld and regarded by a Dutch court of competent jurisdiction as conclusive evidence when asked to render a judgment in accordance with the NY Judgment, without substantive re-examination or re-litigation of the subject matter thereof, provided, however that the NY Judgment has been rendered by a court of competent jurisdiction, in accordance with the principles of due process, its content and enforcement do not conflict with Dutch public policy and has not been rendered in proceedings of a penal or revenue or other public nature.

13. It is not necessary for the execution, performance or enforcement in The Netherlands of the Documents, that the Lenders be licensed, registered, qualified or otherwise entitled to carry on business in The Netherlands and no Lender is and will be deemed to be resident, domiciled or carrying on business in The Netherlands merely by reason of the execution, performance or enforcement of the Documents, the holding of the Maturity "A" Notes or the making or receipt of any payment under the Documents, including the Maturity "A" Notes.

14. There are no exchange control restrictions in The Netherlands, that would restrict the ability of a Lender to exercise its rights against the Company under the Documents or to remit the proceeds of enforcement thereof out of The Netherlands.

15. A judgment rendered by a Dutch court against the Company with respect to its payment obligations under a Document would, if requested, be expressed in the currency in which this money is payable.

16. No stamp (*zegelrechten*), registration duties or similar taxes or charges are payable under the laws of The Netherlands in connection with the execution, performance or enforcement of the Maturity Loan "A" Agreement or any of the other Documents, other than court fees in respect of proceedings in the Dutch courts.

17. Payments of principal or interest by the Company under the Documents will not be subject to Dutch withholding tax, provided that any such payments do not qualify as and will not be construed as income from shares (*opbrengst van aandelen*) of the Company, income from profit rights (*opbrengst van winstbewijzen*) of the Company and income from loans to the Company entered into under such conditions that they in fact function as equity (*opbrengst van leningen onder zodanige voorwaarden aangegaan dat deze feitelijk functioneren als eigen vermogen*) of the Company, and we have no reason to believe at this time, and do not believe, that any such payments will be considered income from such shares, profit rights and loans.

18. There are no actions, suits or proceedings pending against the Company before any court in The Netherlands and no steps have been, or are being, taken to compulsorily wind-up the Company and no resolution to voluntarily wind-up the Company has been adopted by its respective members.

19. The appointment by the Company of CT Corporation Systems as its agent for the purpose described in Section 13.12 of the Maturity Loan "A" Agreement or any other similar provision in any of the Documents is valid, binding and effective. Service of process effected in the manner set forth in Section 13.12 of the Maturity Loan "A" Agreement or any other similar provision in any of the Documents, assuming its validity under the laws of the State of New York, will be effective, insofar as Dutch law is concerned, to confer valid personal jurisdiction over the Company.

The opinions expressed above are subject to the following qualifications:

(A) Our opinions expressed herein are subject to and limited by applicable bankruptcy, suspension of payment, insolvency, reorganisation and other laws relating to or affecting the rights of creditors or secured creditors generally.

(B) Delivery of documents is not a concept of Dutch law.

(C) The enforcement in The Netherlands of the Documents is subject to the Dutch rules of civil procedure as applied by the Dutch courts.

(D) The availability in the Dutch courts of the remedies of injunction and specific performance is at the discretion of the courts.

(E) The Dutch courts may stay or refer proceedings if concurrent proceedings are being brought elsewhere.

(F) The Dutch courts may render judgments for a monetary amount in foreign currencies, but these foreign monetary amounts may be converted into Euros for enforcement purposes. Foreign currency amounts claimed in a Dutch (provisional) suspension of payment or bankruptcy proceeding will be converted into Euros at the rate prevailing at commencement of that proceeding.

(G) The choice of the law of the State of New York to govern the Documents would be upheld by the Dutch courts, although under the rules of Dutch private international law (and those of the Convention on the Law Applicable to Contractual Relations of 19 June 1980 (the " **Rome Convention**")), (i) effect may be given to the mandatory rules of the law of another country with which the situation has a close connection, if and insofar as, under the law of that other country, those mandatory rules must be applied regardless of the law applicable to the contract (Article 7 of the Rome Convention) or (ii) the application of a term or condition of the Documents or a rule of foreign law applicable thereto under the Rome Convention may be refused if that application is manifestly incompatible with Dutch public policy (Article 16 of the Rome Convention). With the express reservation that we are not qualified to assess the exact meaning and consequences of the respective terms and conditions of the Documents under the law of the State of New York, on the face of those Documents, we are not aware of any condition therein that is likely to give rise to situations (i)where the mandatory rules of Dutch law will be applied by the Dutch courts irrespective of the law otherwise applicable to those Documents or (ii) that appear to be *prima facie* manifestly incompatible with Dutch public policy.

(H) The obligations of the Company under the Documents may be contested by it or by its receiver in bankruptcy on the basis of Section 2:7 of The Netherlands Civil Code, if both (a) the execution and performance of the Documents cannot serve the attainment of the objects as expressed in the articles of association of the Company (having regard to all relevant circumstances such as, whether the execution and performance of the Documents is in the Company's corporate interest (*vennootschappelijk belang*) and whether or not the subsistence of the Company could be jeopardised by the performance of its obligations under the Documents), and (b) the counterparties to the Documents knew or should reasonably have known (without any enquiry) of this fact. However, unless and until the Company has successfully invoked the nullity of the Documents on this basis, the Documents remain valid, binding and enforceable (unless they would be void on other grounds).

As regards (a):

In determining whether the entering into of the transactions contemplated by the Documents is in furtherance of the objects and purposes of a Netherlands company, it is important to consider (x) the text of the objects clause in the articles of association of such Netherlands company, (y) whether such transactions (including the granting of such guarantee or security) are in The Netherlands company's corporate interest (*vennootschappelijk belang*) and to its benefit, and (z) whether or not the subsistence of such Netherlands company is jeopardised by such transactions.

The mere fact that a certain transaction (*rechtshandeling*) is explicitly mentioned in a Netherlands company's objects clause is not sufficient to determine with certainty whether or not the Documents will or will not be *ultra vires*. This is because, following a majority of the authoritative legal writers, the Supreme Court of The Netherlands has rendered judgments that a transaction should in any event be in the corporate interest of a Netherlands company in order to be *intra vires*. As it cannot reasonably be expected of

counterparties to make an assessment of corporate interest in each transaction they enter into with a Dutch company, the test proposed in authoritative literature is that it should have been obvious to the counterparty that a certain transaction was contrary to a company's corporate interest in order for that transaction to be voided on the grounds of *ultra vires.* In case the Documents would ever be challenged by the Company on such grounds, the Lenders should be able to demonstrate that they had *no* indication that the Documents were *not* in the Company's corporate interest.

For purposes of this opinion we have assumed that the Company's execution and performance of the Documents are in its corporate interest.

As regards (b):

Because the criteria for determining whether requirement (a) is met are mostly factual, absolute certainty cannot be provided. Consequently, it is often advisable to achieve protection against *ultra vires* by obtaining and relying on confirmations as to (a) from a Dutch company. This type of comfort would typically consist of a statement or representation from the company's highest executive body, i.e. in this case the managing directors (*bestuur*). The purpose of such a statement or representation is to ensure that the second requirement for a successful *ultra vires* challenge is not met. In the event that a Netherlands company invokes (the defence of) *ultra vires* before a Netherlands court, and the counterparty to the relevant transaction can demonstrate that it relied on statements as to the scope of the company's objects clause or its corporate benefit made by that company's managing director(s) (such as those contained in the Board Resolutions) *prior to entering into the relevant agreements,* this will give rise to the presumption that such counterparty could reasonably have assumed that the transaction was within the company's objects. This presumption will avoid the defence being invoked successfully, provided that it cannot be established that the beneficiary had actual knowledge that could rebut such presumption.

In the present case the managing directors of the Company have all signed the Board Resolutions, which contain certain confirmations. Since according to such statements and representations the execution and performance of the Documents is and will be in its corporate interest and to its benefit (which statements we assume to be correct without any investigation on our part), and do not breach its articles of association and assuming that the Lenders will be entering into the Documents in *bona fide* reliance on the statements made in the Board Resolutions (i.e. had no indication whatsoever that the transactions contemplated thereby were not in the Company's corporate benefit), having given consideration to recent case law and literature, it may reasonably be expected that the execution of the Documents cannot be challenged successfully on the basis of Section 2:7 of The Netherlands Civil Code by the Company or its receiver in bankruptcy.

(I) Our opinions expressed herein are further subject to the effect of general principles of equity, including (without limitation) the concepts or materiality, reasonableness and fairness (*redelijkheid en billijkheid* as known under Netherlands law), imprévision, misrepresentation, good faith and fair dealing and subject to the concepts of error (*dwaling*) and fraud (*bedrog*).

(J) A power of attorney granted by a Dutch company will automatically, *i.e.* by operation of law, terminate upon the bankruptcy of the company or become ineffective, when this company has been granted a (provisional) suspension of payment. To the extent that the appointment of a process agent by the Company constitutes the granting of a power of attorney to that process agent, the service of process on that agent, after the Company has been declared bankrupt or it has been granted a (provisional) suspension of payments, would not be valid and effective, other than to the extent authorised by the public receiver (*curator*) or administrator (*bewindvoerder*), as the case may be.

(K) We have assumed that the Extract fully and accurately reflects the corporate status and position of the Company. It is noted, however, that the Extract may not completely and accurately reflect this status and position insofar as there may be a delay between the taking of a corporate action (such as the issuance of shares, the appointment or removal of a director, a winding-up (*ontbinding*) or (provisional) suspension of payment resolution or the making of a court order, like a winding-up, (provisional) suspension of payment or bankruptcy order) and the filing of the necessary documentation at the Commercial Register and a further delay between that filing and an entry appearing on the file of the relevant party at the Commercial Register.

(L) In issuing this opinion we do not assume any obligation to notify or to inform you (or any other person entitled to rely on this opinion) of any development subsequent to its date that might render its contents untrue or inaccurate in whole or in part at such time.

(M) As to the opinions 7(iii) and 18 we have relied solely upon a management certificate from the Company; we have assumed that the statements made therein are accurate and correct in all respects and we have not investigated any of the matters addressed therein.

This opinion, which is strictly limited to the matters expressly stated herein is given subject to the conditions, including the limitation of liability, set out at the bottom of the front page of this opinion letter and on the basis that this opinion is governed by and to be construed in accordance with Dutch law and that any action, arising out of it, is to be determined by a competent court in Amsterdam which shall have exclusive jurisdiction in relation thereto.

This opinion is given solely for the benefit of the Administrative Agent the Lenders identified on Schedule 1 hereto and their respective legal advisors in this particular matter and the context specified herein. It may not, without our prior written consent, be transmitted or otherwise disclosed to, or relied upon by, others, referred to in other matters or context whatsoever, or be quoted or made public in any way.

Yours faithfully,

Warendorf

SCHEDULE 1

HSBC Securities (USA) Inc., as Sole Structuring Agent

HSBC Securities (USA) Inc., Joint Lead Arranger and Joint Bookrunner

Banco Santander, S.A., Joint Lead Arranger and Joint Bookrunner

The Royal Bank of Scotland PLC, Joint Lead Arranger and Joint Bookrunner

ING Capital LLC, as Administrative Agent

Each of the following, as Lender:

HSBC México, S.A., Institución de Banca Múltiple, Grupo Financiero HSBC, acting through its Grand Cayman branch

Banco Santander, S.A.

The Royal Bank of Scotland, PLC

ING Bank N.V., acting through its Curacao branch

Caja de Ahorros y Monte de Piedad de Madrid - Miami Agency

Each Assignee that becomes a Lender pursuant to Section 13.06(b) of the Dutch Loan "A" Agreement and each of their respective successors or assigns.

(ii) SCHEDULE 2

Documents

(a) an execution copy of the Maturity Loan "A" Agreement; and

(b) copies of the Maturity "A" Notes.

SCHEDULE 3

Certificates

(a) a copy of the Articles of Association (*statuten*) of the Company, dated 15 October 2003 which are the currently effective Articles of Association of the Company according to the extract referred to in clause b) below (the " **Articles**");

(b) an official extract (*uittreksel*) dated the date hereof from the Commercial Register (*Handelsregister*) of the Chamber of Commerce in Amsterdam, relating to the registration of the Company under number 34133556 (the " **Extract**");

(c) a copy of the resolutions of the Board of Managing Directors (*Bestuur*) of the Company incorporating the power of attorney, granted by the Company to Humberto Lozano Vargas and/or Jaime Armando Chapa Gonzalez and/or Agustin de Jesus Blanco Garza individually and severally, dated December 2008 (the "**Board Resolutions**");

(d) a copy of a managers certificate from the Company dated December 2008 certifying the matters set forth therein;

(e) a copy of an officers certificate from the Company dated December 2008 certifying the matters set forth therein;

(f) a copy of a managers certificate from the Company dated 19 December 2008 certifying the matters referred to in opinions 7 (iii) and 18 hereof.

*****

EXHIBIT 4.25.2

EXECUTION VERSION

FIRST AMENDMENT TO MATURITY LOAN "A" AGREEMENT

This First Amendment to the Maturity Loan "A" Agreement (as defined below), dated as of January 22, 2009 (this " Amendment No. 1"), is entered into by and among **NEW SUNWARD HOLDING B.V.** (the "Borrower"), a private company with limited liability formed under the laws of The Netherlands, with its corporate seat in Amsterdam, The Netherlands, **CEMEX, S.A.B. de C.V.**, (the "Parent"), a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States, **CEMEX MÉXICO, S.A. de C.V.**, ("CEMEX Mexico" and together with the Parent, the "Guarantors") a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States, the several Lenders party thereto, and **ING CAPITAL LLC**, as administrative agent (the "Administrative Agent").

RECITALS

A. The Borrower, the Guarantors, the several Lenders party thereto, the Administrative Agent, HSBC Securities (USA) Inc., as Sole Structuring Agent, Joint Lead Arranger and Joint Bookrunner, Banco Santander, S.A., as Joint Lead Arranger and Joint Bookrunner, and The Royal Bank of Scotland PLC, as Joint Lead Arranger and Joint Bookrunner, are parties that certain Senior Unsecured Maturity Loan "A" Agreement, dated as of December 31, 2008 (as now or hereafter amended, restated, waived or otherwise modified, the " Maturity Loan "A" Agreement").

B. The Borrower has requested that the Administrative Agent and the Lenders consent to the following amendment to the Maturity Loan "A" Agreement.

C. This Amendment No. 1 shall constitute a Transaction Document and these Recitals shall be construed as part of this Amendment No. 1.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, and of the Loans and other extensions of credit heretofore, now or hereafter made to, or for the benefit of, the Borrower by the Lenders, the Borrower, the Guarantors, the Administrative Agent, and the Lenders hereby agree as follows:

1. Definitions. Except to the extent otherwise specified herein, capitalized terms used in this Amendment No. 1 shall have the same meanings ascribed to them in the Maturity Loan "A" Agreement.

2. Amendments. Subject to Section 4, the Maturity Loan "A" Agreement is hereby amended as follows:

2.1 The definition for "EBITDA" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""EBITDA" means, for any period, the sum for the Parent and its Subsidiaries, determined on a consolidated basis of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Applicable GAAP, subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued

EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA for any applicable period pursuant to any determination of the Consolidated Net Debt / EBITDA Ratio (but not the Consolidated Fixed Charge Coverage Ratio): (A) (i) if at any time during such applicable period the Parent or any of its Subsidiaries shall have made any Material Disposition, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such applicable period (but when the Material Disposition is by way of lease, income received by the Parent or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such applicable period the Parent or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving *pro forma* effect thereto (including the incurrence or assumption of any Debt) as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any Person that subsequently shall have become a Subsidiary or was merged or consolidated with the Parent or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Disposition or Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Parent or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Disposition or Acquisition had occurred on the first day of such applicable period; and (B) all EBITDA for each applicable period ending on or after December 31, 2008 will be recalculated by multiplying each month's EBITDA by the Ending Exchange Rate and dividing the amount obtained thereto by the exchange rate used by the Parent in preparation of its monthly financial statements in accordance with Mexican FRS to convert U.S.$ into Mexican pesos (such recalculated EBITDA being the " Recalculated EBITDA"), provided, that, the Required Lenders shall have the option, with respect to any Reference Period ending after December 31, 2009, to discontinue the incorporation of Recalculated EBITDA into the Consolidated Net Debt/EBITDA Ratio (the "Discontinue Option"). The Required Lenders may exercise the Discontinue Option upon notice to the Administrative Agent, who shall, acting upon the instructions of the Required Lenders, notify the Parent of such exercise in writing (the " Notice of Discontinuance") at least thirty (30) days prior to the end of such Reference Period. Subject to the foregoing notice requirements, such Discontinue Option shall be effective for each Reference Period ending after the date of such Notice of Discontinuance to the Parent as set forth herein."

2.2 The definition for "Ending Exchange Rate" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Ending Exchange Rate" means the exchange rate at the end of a Reference Period for converting U.S.$ into Mexican pesos, used by the Parent and its auditors in preparation of the Parent's financial statements in accordance with Mexican FRS."

2.3 The definition of "U.S.$/Euro EBITDA" in Section 1.01 (" Certain Definitions") shall be deleted in its entirety.

3. Representations and Warranties. The Borrower and each of the other Credit Parties hereby represent and warrant to the Administrative Agent and the Lenders that:

3.1 The representations and warranties of the Borrower contained in the Maturity Loan "A" Agreement are true and correct as of the date of this Amendment No. 1.

3.2 The representations and warranties of the Guarantors contained in the Maturity Loan "A" Agreement are true and correct as of the date of this Amendment No. 1.

3.3 The execution, delivery and performance by the Borrower and each of the other Credit Parties of this Amendment No. 1 has been duly authorized by all necessary corporate action, and this Amendment No. 1 constitutes the legal, valid and binding obligation of the Borrower and each of the other Credit Parties enforceable against the Borrower and each of the other Credit Parties in accordance with its terms, except as enforceability may be limited by applicable *concurso mercantil,* bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally or general equity principles.

3.4 The execution, delivery and performance of this Amendment No. 1 does not, and will not, contravene or conflict with any provision of (i) any Requirement of Law, (ii) any judgment, decree or order, or (iii) the certificate or articles of incorporation or by-laws or other constituent documents of the Borrower and the Credit Parties, and does not, and will not, contravene or conflict with, or cause any Lien to arise under, any provision of any Contractual Obligation applicable to the Borrower and the Credit Parties.

3.5 No Default or Event of Default exists under the Maturity Loan "A" Agreement or any other Transaction Document or will exist after or be triggered by the execution, delivery and performance of this Amendment No. 1. In addition, the Borrower and each of the other Credit Parties hereby represent, warrant and reaffirm that the Maturity Loan "A" Agreement, the Maturity "A" Notes and each of the other Transaction Documents remain in full force and effect.

4. Conditions Precedent to Effectiveness. The effectiveness of the amendments set forth in Section 2 hereof are in each instance subject to the satisfaction of each of the following conditions precedent (the date on which all such conditions precedent are satisfied or waived being the " Amendment No. 1 Effective Date"):

4.1 Amendment No. 1. This Amendment No. 1 shall have been duly authorized, executed and delivered by each of the Borrower, the Guarantors and the Required Lenders, and acknowledged by the Administrative Agent (which shall be a purely ministerial action).

4.2 No Default. After giving effect to this Amendment No. 1, no Default or Event of Default shall have occurred and be continuing, or would result from the execution or effectiveness of this Amendment No. 1.

4.3 No Material Adverse Effect. No Material Adverse Effect has occurred since December 31, 2007 (excluding the financial condition and events previously disclosed in (i) the Borrower's filings made with the SEC or the *Bolsa Mexicana de Valores, S.A.B de C.V.* after December 31, 2007; or (ii) in the Borrower's unaudited financial statements for each of the first three fiscal periods of 2008).

4.4 Solvency. The Borrower and each Guarantor is, and after giving effect to each of the transactions contemplated by this Amendment No. 1 and the Transaction Documents will be, Solvent.

4.5 Miscellaneous. The Administrative Agent and the Lenders shall have received such other agreements, instruments and documents as the Administrative Agent or the Lenders may reasonably request.

4.6 Other Facilities. This Amendment shall not be effective until the debt obligations set forth on Exhibit A attached hereto have been amended in form and substance reasonably satisfactory to the Lenders and the Borrower shall have notified the Administrative Agent of such modification in writing.

5. Reference to and Effect Upon the Maturity Loan "A" Agreement and other Transaction Documents .

5.1 Full Force and Effect. Except as specifically provided herein, the Maturity Loan "A" Agreement, the Maturity "A" Notes and each other Transaction Document shall remain in full force and effect and each Maturity "A" Note, Transaction Document, and the Maturity Loan "A" Agreement is hereby ratified and confirmed by the Borrower.

5.2 No Waiver. The execution, delivery and effect of this Amendment No. 1 shall be limited precisely as written and shall not be deemed to (i) be a consent to any waiver of any term or condition, or to any amendment or modification of any term or condition (except as specifically provided herein) of the Maturity Loan "A" Agreement, the Maturity "A" Notes or any other Transaction Document, (ii) prejudice any right, power or remedy which the Administrative Agent or any Lender now has or may have in the future under or in connection with the Maturity Loan "A" Agreement or any other Transaction Document or (iii) constitute a novation of any of the obligations under the Maturity Loan "A" Agreement, the Maturity "A" Notes, and the other Transaction Documents.

5.3 Certain Terms. Each reference in the Maturity Loan "A" Agreement to "this Agreement", "hereunder", "hereof", "herein" or any other word or words of similar import shall mean and be a reference to the Maturity Loan "A" Agreement as amended hereby, and each reference in any other Transaction Document to the Maturity Loan "A" Agreement or any word or words of similar import shall be and mean a reference to the Maturity Loan "A" Agreement as amended hereby.

6. Counterparts. This Amendment No. 1 may be executed in any number of counterparts, each of which when so executed shall be deemed an original but all such counterparts shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment No. 1 by telecopier shall be as effective as delivery of a manually executed counterpart signature page to this Amendment No. 1.

7. Costs and Expenses. As provided in the Maturity Loan "A" Agreement, the Borrower shall pay the reasonable fees, costs and expenses incurred by the Administrative Agent in connection with the preparation, execution and delivery of this Amendment No. 1 (including, without limitation, attorneys' fees).

8. GOVERNING LAW. THIS AMENDMENT NO. 1 SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK.

9. Headings. Section headings in this Amendment No. 1 are included herein for convenience of reference only and shall not constitute a part of this Amendment No. 1 for any other purpose.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

NEW SUNWARD HOLDING B.V.,
as Borrower

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-In-Fact

[Signature Page Amendment No. 1 to Maturity "A" Loan – New Sunward Holding]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

CEMEX, S.A.B. DE C.V.,
as a Guarantor

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-In-Fact

[Signature Page Amendment No. 1 to Maturity "A" Loan – Cemex, S.A.B. de C.V.]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

CEMEX MÉXICO, S.A. DE C.V.,
as a Guarantor

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-In-Fact

[Signature Page Amendment No. 1 to Maturity "A" Loan – Cemex Mexico]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

ING CAPITAL LLC,
as Administrative Agent

By /s/ Vincente M. León
Name: Vincente M. León
Title: Director

[Signature Page Amendment No. 1 to Maturity "A" Loan – ING Capital]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

BANCO SANTANDER S.A.,
as a Lender

By /s/ Javier Visedo
Name: Javier Visedo
Title: Executive Director

By /s/ Juan de la Hera
Name: Juan de la Hera
Title: Associate

[Signature Page Amendment No. 1 to Maturity "A" Loan – Banco Santander]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

THE ROYAL BANK OF SCOTLAND PLC,
as a Lender

By /s/ [illegible]
Name: [illegible]
Title: MD

By /s/ Francisco Sewat
Name: Francisco Sewat
Title: Director

[Signature Page Amendment No. 1 to Maturity "A" Loan – RBS]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

CAJA DE AHORROS Y MONTE DE
PIEDAD DE MADRID MIAMI AGENCY,
as a Lender

By /s/ Jose Cueto
Name: Jose Cueto
Title: Senior VP & Deputy General Manager

By /s/ Jesus Miramon
Name: Jesus Miramon
Title: Deputy General Manager

[Signature Page Amendment No. 1 to Maturity "A" Loan – Caja Madrid]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

ING BANK, N.V., ACTING THROUGH ITS CURACAO BRANCH,
as a Lender

By /s/ H.F.J. (Freddy) ten Holt
Name: H.F.J. (Freddy) ten Holt
Title: Chief Financial Officer

By /s/ A.C. Maduro
Name: A.C. Maduro
Title: Risk Manager

[Signature Page Amendment No. 1 to Maturity "A" Loan – ING Bank N.V.]

EXHIBIT A

(1) Amended and Restated Credit Agreement, dated as of June 6, 2005, by and among CEMEX S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V. and Empresas Tolteca de México S.A. de C.V., as guarantors, Barclays Bank PLC, New York Branch, as issuing bank and documentation agent, ING Bank N.V., as issuing bank, the several lenders party thereto, and Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint bookrunner, Citigroup Global Markets Inc., as joint bookrunner and syndication agent, and ING Capital LLC, as joint bookrunner and administrative agent, for an aggregate principal amount of U.S.$700,000,000, as amended by Amendment No. 1 thereto, dated as of June 21, 2006, the Amendment and Waiver Agreement, dated as of December 1, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of December 19, 2008.

(2) Credit Agreement, dated as of May 31, 2005, by and among CEMEX S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V. and Empresas Tolteca de México S.A. de C.V., as guarantors, the several lenders party thereto, Barclays Bank PLC, New York Branch, as administrative agent, Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner, for an aggregate principal amount of U.S.$1,200,000,000, as amended by Amendment No. 1 thereto, dated as of June 19, 2006, the Amendment and Waiver Agreement, dated as of November 30, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Limited Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of December 19, 2008.

(3) Amended and Restated Facilities Agreement, dated as of December 19, 2008, by and among New Sunward Holding B.V., as borrower, CEMEX S.A.B. de C.V., CEMEX México S.A. de C.V. and Empresas Tolteca de México S.A. de C.V., as original guarantors, Banco Bilbao Vizcaya Argentaria, S.A., BNP Paribas and Citigroup Global Markets, Inc., as arrangers, and Citibank, N.A. as agent and on behalf of the finance parties, for an aggregate principal amount of U.S.$700,000,000.

(4) Senior Unsecured Maturity Loan "B" Agreement, dated as of December 31, 2008, by and among NSH, as borrower, CEMEX S.A.B. de C.V., and CEMEX México S.A. de C.V., as guarantors, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto, for an aggregate principal amount of U.S.$525,000,000.

(5) Credit Agreement, dated as of June 25, 2008, among CEMEX S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V., as guarantor, and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch, as lender, for an aggregate principal amount of U.S.$500,000,000, as amended by the First Amendment to the Credit Agreement, dated as of December 19, 2008.

EXHIBIT 4.25.3

EXECUTION VERSION

SENIOR UNSECURED MATURITY LOAN "B" AGREEMENT

among

NEW SUNWARD HOLDING B.V.,
as Borrower

and

CEMEX, S.A.B. de C.V.,
as Guarantor

and

CEMEX MÉXICO, S.A. de C.V.,
as Guarantor

and

HSBC SECURITIES (USA) INC.,
as Sole Structuring Agent

and

HSBC SECURITIES (USA) INC.,
BANCO SANTANDER, S.A. and THE ROYAL BANK OF SCOTLAND PLC

as Joint Lead Arrangers and Joint Bookrunners

and

The Several Lenders Party Hereto,
as Lenders

and

ING CAPITAL LLC,
as Administrative Agent

Up to U.S.$525,000,000

Dated as of December 31, 2008

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SENIOR UNSECURED MATURITY LOAN "B" AGREEMENT

SENIOR UNSECURED MATURITY LOAN "B" AGREEMENT, dated as of December 31, 2008, among **NEW SUNWARD HOLDING B.V.** (the "Borrower"), a private company with limited liability formed under the laws of The Netherlands with its corporate seat in Amsterdam, The Netherlands, **CEMEX, S.A.B. de C.V.** (the "Parent"), a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States, **CEMEX MÉXICO, S.A. de C.V.** ("CEMEX Mexico" and together with the Parent, the "Guarantors"), a *sociedad anonima de capital variable* organized and existing pursuant to the laws of the United Mexican States, the several lenders party hereto, **HSBC SECURITIES (USA) INC.**, as sole structuring agent (in such capacity, together with its successors and assigns, if any, in such capacity, the "Structuring Agent"), **HSBC SECURITIES (USA) INC.**, **BANCO SANTANDER, S.A.** and **THE ROYAL BANK OF SCOTLAND PLC** as joint lead arrangers and joint bookrunners (the "Joint Lead Arrangers"), and **ING Capital LLC**, as administrative agent (in such capacity, together with its successors and assigns, if any, in such capacity, the "Administrative Agent").

RECITALS

WHEREAS, the Senior Unsecured Dutch Loan "B" Agreement, dated as of June 2, 2008, by and among the Borrower, each Guarantor, HSBC SECURITIES (USA) INC., as sole structuring agent, HSBC SECURITIES (USA) INC., BANCO SANTANDER, S.A. AND THE ROYAL BANK OF SCOTLAND PLC as joint lead arrangers and joint bookrunners, ING Capital LLC, as administrative agent and each lender party hereto, as such agreement may be amended, modified or supplemented from time to time (the "Dutch Loan "B" Agreement") permits the Borrower to convert its Dutch Loans outstanding thereunder into Loans outstanding under this Agreement, subject to the satisfaction or waiver of certain conditions to such conversion;

WHEREAS, the Dutch Loan "B" Agreement permits the Borrower to convert each Lender's Dutch Loan under the Dutch Loan "B" Agreement into a Loan pursuant to this Agreement and exchange its Dutch "B" Note for a Maturity "B" Note in the identical principal amount;

NOW, THEREFORE, each of the parties hereto hereby agrees as follows:

ARTICLE I
DEFINITIONS

1.01 Certain Definitions. As used in this Agreement, the following terms shall have the following meanings:

"Acquired Debt" means, with respect to any specified Person, Debt of any other Person existing at the time such Person becomes a Subsidiary of such specified Person or assumed in connection with the acquisition of assets from such Person.

"Acquired Subsidiary" means any Subsidiary acquired by the Parent or any other Subsidiary after the date hereof in an Acquisition, and any Subsidiaries of such Acquired Subsidiary on the date of such Acquisition.

"Acquiring Subsidiary" means any Subsidiary of the Parent or any one of its Subsidiaries solely for the purpose of participating as the acquiring party in any Acquisition, and any Subsidiaries of such Acquiring Subsidiary acquired in such Acquisition.

"Acquisition" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if upon the completion of such transaction or transactions, the Parent or any Subsidiary thereof has acquired an interest in assets comprising all or substantially all of an operating-unit, division, or line of business or in any Person who is deemed to be a Subsidiary under this Agreement and was not a Subsidiary prior thereto.

"Act" has the meaning specified in Section 13.16.

"Adjusted Consolidated Net Tangible Assets" means, with respect to the Parent, the total assets of the Parent and its Subsidiaries (less applicable depreciation, amortization and other valuation reserves), including any write-ups or restatements required under Applicable GAAP (other than with respect to items referred to in clause (ii) below), after deducting therefrom (i) all current liabilities of such Person and its Subsidiaries (excluding the current portion of long-term debt) and (ii) all goodwill, trade names, trademarks, licenses, concessions, patents, unamortized debt discount and expense and other intangibles, all as determined on a consolidated basis in accordance with Applicable GAAP.

"Administrative Agent" means ING Capital LLC, in its capacity as administrative agent for each of the Lenders, and its successors and assigns in such capacity.

"Administrative Agent's Payment Office" means the Administrative Agent's address for payments set forth on the signature pages hereof or such other address as the Administrative Agent may from time to time specify to the other parties hereto pursuant to the terms of this Agreement.

"Affected Lender" has the meaning specified in Section 3.06(a).

"Affiliate" means, in relation to any Person, a Subsidiary of that Person or a Holding Company of that Person or any other Subsidiary of that Holding Company.

"Agreement" means this Senior Unsecured Maturity Loan "B" Agreement, as the same may hereafter be amended, supplemented or otherwise modified from time to time.

"Applicable GAAP" means, with respect to any Person, Mexican FRS or other generally accepted accounting principles required to be applied to such Person in the jurisdiction of its incorporation or organization and used in preparing such Person's financial statements.

"Applicable Margin" means, at any date, 1%.

"Assignee" has the meaning specified in Section 13.06(b).

"Assignment and Assumption Agreement" means an assignment and assumption agreement in substantially the form of Exhibit C.

"Assignor" has the meaning specified in Section 13.06(b).

"Average Drawn Commitment" means, for any Calculation Period, the ratable share of the Average Outstanding Loans for any Lender under this Agreement as of the end of each day during such fiscal quarter, divided by the number of days in such fiscal quarter.

"Average Outstanding Loans" means, for any fiscal quarter, the sum of the aggregate principal amount of Loans outstanding under this Agreement as of the end of each day during each such fiscal quarter, divided by the number of days in such fiscal quarter.

"Base Rate" means, for any day, the higher of (a) the Prime Rate or (b) the Federal Funds Rate plus $^{1}/_{2}$% per annum, in each case as in effect for such day. Any change in the Prime Rate announced by the Reference Banks shall take effect at the opening of business on the day specified in the public announcement of such change.

"Base Rate Loan" means any Loan made or maintained at a rate of interest calculated with reference to the Base Rate.

"Borrower" has the meaning specified in the preamble hereto.

"Business Day" means any day other than a Saturday or Sunday or other day on which commercial banks in New York City, New York, Amsterdam, The Netherlands, Madrid, Spain or Mexico City, Mexico are authorized or required by law to close.

"Calculation Date" means with respect to each Calculation Period, the earlier of the date on which the Borrower delivers, or is required to deliver its financial statements with respect to the corresponding fiscal quarter in accordance with Sections 7.01(a) and 7.01(b); provided, however, that the Calculation Date for the final Facility Fee Payment Date shall be the date on which the financial statements for the most recently completed fiscal quarter for which financial statements are required to have been delivered pursuant to Sections 7.01(a) and 7.01(b) have been delivered or were required to be delivered.

"Calculation Period" means each fiscal quarter; provided, however, the first Calculation Period shall commence on the Conversion Date and the last Calculation Period shall end on the last Facility Fee Payment Date.

"Capital Expenditure" means, for any period, (a) the additions to property, plant and equipment and other capital expenditures of the Parent and its Subsidiaries that are (or should be) set forth in a consolidated statement of cash flows of the Parent for such period prepared in accordance with Mexican FRS and (b) any Capital Leases incurred by the Parent and its Subsidiaries during such period.

"Capital Lease" means, as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under Applicable GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with Applicable GAAP.

"Capital Stock" means any and all shares, interests, participations or other equivalents (however designed) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

"CEMEX Mexico" has the meaning specified in the preamble hereto.

"Code" means the Internal Revenue Code of 1986, as amended.

"Competitor" means any Person engaged in the business of producing, distributing, and marketing cement, ready-mix concrete, aggregates, and related building materials.

"Confidential Information" means information that a Credit Party furnishes to the Administrative Agent, the Structuring Agent, the Joint Lead Arrangers or any Lender in a writing designated as confidential, but does not include any such information that is or becomes generally available to the public or that is or becomes available to the Administrative Agent, the Structuring Agent, the Joint Lead Arrangers or such Lender from a source other than a Credit Party that is not, to the best of the Administrative Agent's, the Structuring Agent's, the Joint Lead Arrangers' or such Lender's knowledge, acting in violation of a confidentiality agreement with the Credit Party or any other Person.

"Consenting Lender" means any Lender who is a signatory to the Dutch Loan "B" Amendment.

"Consolidated Fixed Charges" means, for any period, the sum (without duplication) of (a) Consolidated Interest Expense for such period and (b) to the extent not included in (a) above, payments during such period in respect of the financing costs of financial derivatives in the form of equity swaps.

"Consolidated Fixed Charge Coverage Ratio" means, for any Reference Period, the ratio of (a) EBITDA for such period to (b) Consolidated Fixed Charges for such period.

"Consolidated Interest Expense" means, for any period, the total gross interest expense of the Parent and its consolidated Subsidiaries allocable to such period in accordance with Applicable GAAP.

"Consolidated Net Debt" means, at any date, the sum (without duplication) of (a) the aggregate amount of all Debt of the Parent and its Subsidiaries at such date, *plus* (b) to the extent not included in Debt, the aggregate amount of all derivative financing in the form of equity swaps outstanding at such date (except to the extent such exposure is cash collateralized) *minus* (c) all Temporary Investments (for the avoidance of doubt, net of any amounts pledged as cash collateral) of the Parent and its Subsidiaries at such date.

"Consolidated Net Debt / EBITDA Ratio" means, on any date of determination, the ratio of (a) Consolidated Net Debt on such date to (b) EBITDA for the one year period ending on such date (subject to adjustment as set forth in the definition of "EBITDA").

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any indenture, mortgage, deed of trust, loan agreement or other agreement to which such Person is a party or by which it or any of its property or assets is bound.

"Conversion Date" has the meaning set forth in Article IV.

"Conversion Notice" shall have the meaning given such term in the Dutch Loan "B" Agreement.

"Credit Party" means the Borrower or a Guarantor.

"Credit Parties" means the Borrower and the Guarantors.

"Debt" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee under Capital Leases, (v) all Debt of others secured by a Lien on any asset of such Person, up to the value of such asset, as recorded in such Person's most recent balance sheet, (vi) all obligations of such Person with respect to product invoices incurred in connection with export financing, (vii) all obligations of such Person under repurchase agreements for the

stock issued by such Person or another Person, and (viii) all Guarantees of such Person in respect of any of the foregoing. For the avoidance of doubt, Debt does not include Derivatives or Qualified Receivables Transactions. With respect to the Parent and its Subsidiaries, the aggregate amount of Debt outstanding shall be adjusted by the Value of Debt Currency Derivatives solely for the purposes of calculating the Consolidated Net Debt / EBITDA Ratio. If the Value of Debt Currency Derivatives is a positive mark-to-market valuation for the Parent and its Subsidiaries, then Debt shall decrease accordingly, and if the Value of Debt Currency Derivatives is a negative mark-to-market valuation for the Parent and its Subsidiaries, then Debt shall increase by the absolute value thereof.

"Debt Currency Derivatives" means derivatives of the Parent and its Subsidiaries related to currency entered into for the purposes of hedging exposures under outstanding Debt of the Parent and its Subsidiaries, including but not limited to cross-currency swaps and currency forwards.

"Default" means any condition, event or circumstance which, with the giving of notice or lapse of time or both, would, unless cured or waived, become an Event of Default.

"Derivatives" means any type of derivative obligations, including but not limited to equity forwards, capital hedges, cross-currency swaps, currency forwards, interest rate swaps and swaptions.

"Discontinued EBITDA" means, for any period, the sum for Discontinued Operations of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Mexican FRS consistently applied for such period.

"Discontinued Operations" means operations that are accounted for as discontinued operations pursuant to Mexican FRS for which the Disposition of such assets has not yet occurred.

"Discontinue Option" has the meaning set forth under the definition of "EBITDA" in this Section 1.01.

"Disposition" means, with respect to any property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof.

"Dollars," "$" and "U.S.$" each means the lawful currency of the United States.

"Dutch "B" Note" has the meaning set forth in the Dutch Loan "B" Agreement.

"Dutch Financial Supervision Act" means the Dutch Financial Supervision Act (*Wet op het financieel toezicht*) and the rules and regulations promulgated thereunder.

"Dutch Loan "B" Agreement" has the meaning set forth in the Recitals.

"Dutch Loan "B" Amendment" means the First Amendment to the Dutch Loan "B" Agreement, dated as of December 19, 2008, by and among New Sunward Holding B.V., as Borrower, Cemex S.A.B. de C.V. and Cemex Mexico, S.A. de C.V., as Guarantors, ING Capital LLC, as Administrative Agent and the several Lenders party thereto.

"Dutch Loan Closing Date" means June 2, 2008.

"Dutch Loans" means the Loans as defined in and existing pursuant to the Dutch Loan "B" Agreement.

"EBITDA" means, for any period, the sum for the Parent and its Subsidiaries, determined on a consolidated basis of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Applicable GAAP, subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA for any applicable period pursuant to any determination of the Consolidated Net Debt / EBITDA Ratio (but not the Consolidated Fixed Charge Coverage Ratio): (A) (i) if at any time during such applicable period the Parent or any of its Subsidiaries shall have made any Material Disposition, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such applicable period (but when the Material Disposition is by way of lease, income received by the Parent or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such applicable period the Parent or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving *pro forma* effect thereto (including the incurrence or assumption of any Debt) as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any Person that subsequently shall have become a Subsidiary or was merged or consolidated with the Parent or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Disposition or Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Parent or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Disposition or Acquisition had occurred on the first day of such applicable period; and (B) all U.S.$/Euro EBITDA for each applicable period ending on or after December 31, 2008 will be recalculated and converted into Mexican pesos by applying the Ending Exchange Rate to each month's U.S.$/Euro EBITDA amount (such recalculated EBITDA being the "Recalculated EBITDA"), provided that, the Required Lenders shall have the option,

with respect to any Reference Period ending after December 31, 2009, to discontinue the incorporation of Recalculated EBITDA into the Consolidated Net Debt / EBITDA Ratio (the "Discontinue Option"). The Required Lenders may exercise the Discontinue Option upon notice to the Administrative Agent, who shall, acting upon the instructions of the Required Lenders, notify the Parent of such exercise in writing (the " Notice of Discontinuance") at least thirty (30) days prior to the end of such Reference Period. Subject to the foregoing notice requirements, such Discontinue Option shall be effective for each Reference Period ending after the date of such Notice of Discontinuance to the Parent as set forth herein.

"Ending Exchange Rate" means the exchange rate at the end of a Reference Period for U.S.$ or Euros, as the case may be, corresponding to any U.S.$/Euro EBITDA, in each case as used by the Parent and its auditors in preparation of the Parent's financial statements in accordance with Mexican FRS.

"Environmental Action" means any audit procedure, action, suit, demand, demand letter, claim, notice of non-compliance or violation, notice of liability or potential liability, investigation, proceeding, consent order or consent agreement relating in any way to any Environmental Law, Environmental Permit or Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment, including (a) by any Governmental Authority for enforcement, cleanup, removal, response, remedial or other actions or damages and (b) by any Governmental Authority or any third party for damages, contribution, indemnification, cost recovery, compensation or injunctive relief.

"Environmental Law" means any federal, state, local or foreign statute, law, ordinance, rule, regulation, technical standard (*norma técnica or norma oficial Mexicana*), code, order, judgment, decree or judicial agency interpretation, policy or guidance relating to pollution or protection of the environment, health, safety or natural resources, including those relating to the use, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials.

"Environmental Permit" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"Euro" means the single currency of Participating Member States.

"Event of Default" has the meaning set forth in Section 10.01.

"Excess Payment" has the meaning set forth in Section 3.09(a).

"Excluded Taxes" means, (i) in the case of each Lender the Administrative Agent, and any Tax Related Persons, such taxes (including income taxes or franchise taxes) as are imposed on or measured by its net income or capital by the jurisdiction (or any political subdivision thereof) under the laws of which it is organized or maintains a Lending Office or its principal office or performs its functions as Administrative Agent

or as are imposed on such Lender or the Administrative Agent or any of their Tax Related Persons (as the case may be) as a result of a present or former connection between the Lender, the Administrative Agent, or such Tax Related Person and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from the Lender or such Administrative Agent having executed, delivered or performed its obligations or received a payment under, or enforced, the Transaction Documents), (ii) United States backup withholding taxes imposed because of payee underreporting, and (iii) any withholding tax that is imposed on amounts payable to a Lender at the time such Lender becomes a party hereto, or that is imposed due to such Lender's failure or inability to comply with Section 3.01(f); provided, however, that Excluded Taxes shall not include (A) any Mexican withholding tax imposed on payments made by any Guarantor to the Administrative Agent, any Lender, or any Tax Related Persons under this Agreement or any other Transaction Documents, or (B) in the case of an assignment, transfer, grant of a participation, or designation of a new Lending Office by any Lender, withholding taxes solely to the extent that such withholding taxes are (1) not in excess of the amounts the Borrower and Guarantors were required to pay or increase with respect to such Lender pursuant to Section 3.01 immediately prior to such an event, or (2) imposed as a result of a change in applicable law or regulation occurring after such event.

"Facility Fee" has the meaning set forth in Section 2.03.

"Facility Fee Payment Date" has the meaning set forth in Section 2.03.

"Federal Funds Rate" means for any relevant day, the overnight Federal funds rate as published for such day in the Federal Reserve Statistical Release H.15 (519) or any successor publication, or, if such rate is not published for any day, the rate for such day will be the rate set forth in the daily statistical release designated as the Composite 3:30 p.m. Quotation for U.S. Government Securities, or any successor publication, published by the Federal Reserve Bank of New York (including any such successor, the "Composite 3:30 p.m. Quotation" for such day under the caption "Federal Funds Effective Rate"). If on any relevant day the appropriate rate for such previous day is not yet published in either H.15 (519) or the Composite 3:30 p.m. Quotations, the rate for such day will be the arithmetic mean as determined by the Administrative Agent of the rates for the last transaction in overnight Federal funds arranged prior to 9:00 a.m. (New York City time) on that day by each of three leading brokers of recognized standing of Federal funds transactions in New York City selected by the Administrative Agent.

"Federal Reserve Board" means the Board of Governors of the Federal Reserve System of the United States.

"Fitch" means Fitch Ratings, Ltd. and any successor thereto.

"Governmental Authority" means any branch of power or government or any state, department or other political subdivision thereof, or any governmental body,

agency, authority (including any central bank or taxing or environmental authority), any entity or instrumentality (including any court or tribunal) exercising executive, legislative, judicial, regulatory, administrative or investigative functions of or pertaining to government.

"Guarantee" means, as applied to any Debt of another Person, (i) a guarantee, direct or indirect, in any manner, of any part or all of such Debt and (ii) any direct or indirect obligation, contingent or otherwise, of a Person guaranteeing or having the effect of guaranteeing the Debt of any other Person in any manner (and "Guaranteed" and "Guaranteeing" shall have meanings that correspond to the foregoing).

"Guarantor" has the meaning specified in the preamble hereto.

"Hazardous Materials" means (a) radioactive materials, asbestos-containing materials, polychlorinated biphenyls, radon gas and (b) any other chemicals, materials or substances designated, classified or regulated as hazardous or toxic or as a pollutant or contaminant under any applicable Environmental Law.

"Holding Company" means, in relation to a company or a corporation, any other company or corporation in respect of which it is a Subsidiary.

"IFRS" means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

"Incur" means, with respect to any Debt of any Person, to create, issue, incur (by conversion, exchange or otherwise), assume, Guarantee or otherwise become liable in respect of such Debt or the recording, as required pursuant to Applicable GAAP or otherwise, of any such Debt on the balance sheet of such Person. Debt otherwise Incurred by a Person before it becomes a Subsidiary of the Parent shall be deemed to be Incurred at the time at which such Person becomes a Subsidiary of the Parent. "Incurrence," "Incurred," "Incurrable" and "Incurring" shall have meanings that correspond to the foregoing.

"Indebtedness" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee under Capital Leases, (v) all Debt of others secured by a Lien on any asset of such Person, up to the value of such asset, as recorded in such Person's most recent balance sheet, (vi) all obligations of such Person with respect to product invoices incurred in connection with export financing and (vii) all obligations of such Person under repurchase agreements for the stock issued by such Person or another Person.

"Indemnified Party" has the meaning specified in Section 13.05.

"Indemnified Taxes" means Taxes other than Excluded Taxes arising from any payment made hereunder or under any other Transaction Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Transaction Document.

"Interest Payment Date" means the last day of each Interest Period for the Loans, the date of repayment of the Loans and the Maturity Date. If an Interest Payment Date falls on a date that is not a Business Day, such Interest Payment Date shall be deemed to be the next preceding Business Day.

"Interest Period" means the period (i) commencing on (a) the Conversion Date or (b) in the case of the continuation of LIBOR Loans for a further Interest Period, on the last day of the immediately preceding Interest Period and (ii) ending three (3) or six (6) months thereafter (or any other period that is shorter than three (3) months if requested by the Borrower and approved by all of the Lenders) as the Borrower may elect in the Conversion Notice or the applicable Notice of Continuation; provided that the foregoing provisions are subject to the following:

(1) if any Interest Period would otherwise end on a day that is not a LIBOR Business Day, such Interest Period shall be extended to the next succeeding LIBOR Business Day unless the result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the immediately preceding LIBOR Business Day;

(2) any Interest Period that begins on the last LIBOR 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 LIBOR Business Day of the relevant calendar month;

(3) if the Borrower shall fail to give notice as provided above, the Borrower shall be deemed to have selected to continue the Loans for a period ending one (1) month thereafter; and

(4) any Interest Period in respect of the Loans that would otherwise extend beyond the Maturity Date shall end on the Maturity Date.

"Investment" by the Parent or its Subsidiaries means, any direct or indirect capital contribution (by means of any transfer of cash) to another Person which is not the Parent or its Subsidiaries, not constituting an Acquisition.

"Joint Lead Arrangers" has the meaning specified in the preamble hereto.

"Judgment Currency" has the meaning specified in Section 13.14(c).

"Lender" means any person that holds a Loan, each Assignee that becomes a Lender pursuant to Section 13.06(b), and each of their respective successors or assigns.

"Lending Office" means, with respect to any Lender, (a) the office or offices of such Lender specified as its " Lending Office" or "Lending Offices" in Schedule 2.01(b) or (b) such other office or offices of such Lender as it may designate as its Lending Office by notice to the Borrower and the Administrative Agent.

"LIBOR" means, applicable to any Interest Period, the rate for deposits in Dollars for a period equal to such Interest Period quoted on the second LIBOR Business Day prior to the first day of such Interest Period, as such rate appears on Reuters Page LIBOR01 as of 11:00 a.m. (London time) on such date as determined by the Administrative Agent and notified to the Lenders and the Borrower on such second prior LIBOR Business Day. If LIBOR cannot be determined based on the Reuters Page LIBOR01, LIBOR means the arithmetic mean (rounded upwards to the nearest $^{1}/_{100}\%$) of the rates per annum, as supplied to the Administrative Agent, quoted by the Reference Banks to prime banks in the London interbank market for deposits in Dollars at approximately 11:00 a.m. (London time) two (2) LIBOR Business Days prior to the first day of such Interest Period in an amount approximately equal to the principal amount of the Loans to which such Interest Period is to apply and for a period of time comparable to such Interest Period.

"LIBOR Business Day" means any Business Day on which commercial banks are open in London for the transaction of international business, including dealings in Dollar deposits in the international interbank markets.

"LIBOR Loan" means any Loan made or maintained at a rate of interest calculated with reference to LIBOR.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. The Parent or any Subsidiary of the Parent shall be deemed to own, subject to a Lien, any asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capital Lease or other title retention lease relating to such asset, or any account receivable transferred by it with recourse (including any such transfer subject to a holdback or similar arrangement that effectively imposes the risk of collectability on the transferor).

"Litigation" means any pending or threatened action, suit, investigation, litigation or proceeding, including any Environmental Action, affecting the Parent or any of its Subsidiaries before any court, Governmental Authority or arbitrator that (a) would be reasonably likely to have a Material Adverse Effect or (b) purports to affect the legality, validity or enforceability of any Transaction Document or the consummation of the transactions contemplated thereby.

"Loan" has the meaning set forth in Section 2.01(a).

"Material Acquisition" means any (a) acquisition of property or series of related acquisitions of property that constitutes assets comprising all or substantially all of an

operating unit, division or line of business or (b) acquisition of or other investment in the Capital Stock of any Subsidiary or any Person which becomes a Subsidiary or is merged or consolidated with the Parent or any of its Subsidiaries, in each case, which involves the payment of consideration by the Parent and its Subsidiaries in excess of U.S.$25,000,000 (or the equivalent in other currencies).

"Material Adverse Effect" means a material adverse effect on (a) the business, condition (financial or otherwise), operations, performance, properties or prospects of the Credit Parties taken as a whole, (b) the validity or enforceability of this Agreement or any of the Maturity "B" Notes or the rights and remedies of the Administrative Agent or any Lender under this Agreement or any of the Maturity "B" Notes or (c) the ability of any Credit Party to perform its Obligations under this Agreement, the Maturity "B" Notes, the Conversion Notice, any certificates, waivers, or any other agreement delivered pursuant to this Agreement.

"Material Debt" means Debt (other than the Loans) of the Parent and/or one or more of its Subsidiaries, arising in one or more related or unrelated transactions, in an aggregate principal amount outstanding exceeding U.S.$50,000,000 (or the equivalent thereof in other currencies).

"Material Disposition" means any Disposition of property or series of related Dispositions of property that yields gross proceeds to the Parent or any of its Subsidiaries in excess of U.S.$25,000,000 (or the equivalent in other currencies).

"Material Subsidiary" means, at any date, (a) each Subsidiary of the Parent (if any) (i) the assets of which, together with those of its Subsidiaries, on a consolidated basis, without duplication, constitute 5% or more of the consolidated assets of the Parent and its Subsidiaries as of the end of the then most recently ended fiscal quarter for which quarterly financial statements have been prepared or (ii) the operating profit of which, together with that of its Subsidiaries, on a consolidated basis, without duplication, constitutes 5% or more of the consolidated operating profit of the Parent and its Subsidiaries for the then most recently ended fiscal quarter for which quarterly financial statements have been prepared and (b) each Guarantor.

"Maturity "B" Notes" has the meaning set forth in Section 2.01(a).

"Maturity Date" means the earlier of (a) June 30, 2011 or (b) the date on which all outstanding principal, accrued and unpaid interest with respect to the Loans are paid in full.

"Mexican FRS" means, Mexican Financial Reporting Standards (*Normas de Información Financiera*) as in effect from time to time and consistent with those used in the preparation of the most recent audited financial statements referred to in Section 7.01; provided, however, that for purposes of Section 8.01, Mexican FRS means Mexican Financial Reporting Standards as in effect on December 31, 2008. In the event that any change in Mexican FRS shall occur, or the Borrower shall decide to or be required to

change to IFRS, and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, then the Credit Parties and the Administrative Agent agree to enter into negotiations in order to amend such provisions of this Agreement so as to equitably reflect such change in Mexican FRS with the desired result that the criteria for evaluating the Parent's financial condition shall be the same after such change as if such change had not been made. Until such time as such an amendment shall have been executed and delivered by the Credit Parties, the Administrative Agent and the Required Lenders, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such change in Mexican FRS had not occurred.

"Mexico" means the United Mexican States.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Notice of Continuation" means a notice substantially in the form of Exhibit B attached hereto and made a part hereof.

"Notice of Default" has the meaning specified in Section 11.05.

"Notice of Discontinuance" has the meaning set forth under the definition of "EBITDA" in this Section 1.01.

"Obligations" means, (a) with respect to the Borrower, all of its obligations and liabilities hereunder, including the Loans, to the Lenders, the Structuring Agent, the Joint Lead Arrangers and the Administrative Agent now or in the future existing under or in connection with the Transaction Documents, whether direct or indirect, absolute or contingent, due or to become due, and (b) with respect to each Guarantor, all of its indebtedness including the Loans hereunder, obligations and liabilities to the Lenders, the Structuring Agent, the Joint Lead Arrangers and the Administrative Agent now or in the future existing under or in connection with the Transaction Documents, in each case whether direct or indirect, absolute or contingent, due or to become due.

"Ordinary Course Loans" means a loan or advance: (i) made by the Parent or any of its Subsidiaries to a supplier, vendor, customer or other similar counterparty; (ii) which is due and payable not more than eighteen (18) months after being made (and where the Debt being Incurred to fund such loan or advance has a weighted average life to maturity that is greater than such loan or advance); (iii) made on terms and under circumstances consistent with past practices of the Parent or such Subsidiary; and (iv) the aggregate principal amount of which, when added to all other such loans and advances, does not exceed at any time U.S.$75,000,000 (or the equivalent in other currencies).

"Other Taxes" means any present or future stamp or documentary taxes which arise from any payment made hereunder and which are imposed, levied, collected or withheld by any Governmental Authority.

"Parent" has the meaning specified in the preamble hereto.

"Participant" has the meaning specified in Section 13.06(d).

"Participating Member State" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with the legislation of the European Union relating to Economic and Monetary Union.

"Permitted Debt" means, any Debt:

(a) the net proceeds of which are applied to repay, prepay or discharge the Loans or other Debt existing as at the date of such Incurrence and associated costs and expenses, so long as either: (i) the weighted average life to maturity of such new Debt is not less than the remaining weighted average life to maturity of the Debt being repaid, prepaid or otherwise discharged and the proceeds of such new Debt are applied towards such repayment, prepayment or other discharge within fifteen (15) days of such Incurrence; or (ii) such new Debt is incurred under a liquidity facility or facilities in an aggregate principal amount not exceeding U.S.$600,000,000 outstanding at any time, provided that the proceeds of such new Debt are used to repay, prepay or otherwise discharge Debt outstanding on the Conversion Date (including any such Debt that has been refinanced) within fifteen (15) days of the Incurrence of such new Debt;

(b) the net proceeds of which are applied to pay obligations of the Parent and/or its Subsidiaries arising under written agreements existing on the Conversion Date, excluding obligations in respect of Capital Expenditures, Restricted Payments and Investments;

(c) the net proceeds of which are applied for Capital Expenditures (i)(A) made from January 1, 2009 until December 31, 2009 in an aggregate amount per annum not to exceed U.S.$60,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing and (B) U.S.$40,000,000 (or the equivalent in other currencies) in all other cases; and (ii)(A) made from January 1, 2010 until December 31, 2010 and from January 1, 2011 until the Maturity Date, in each case in an aggregate amount per annum not to exceed U.S.$40,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing and (B) U.S.$60,000,000 (or the equivalent in other currencies) in all other cases; provided that any Debt Incurred pursuant to this clause has a weighted average life to maturity that is greater than the remaining weighted average life to maturity of the Debt under this Agreement;

(d) the net proceeds of which are applied to satisfy obligations of the Parent or any of its Subsidiaries arising in the ordinary course of business of such Person, excluding obligations in respect of (i) Capital Expenditures, (ii) Restricted Payments, (iii) Acquisitions, (iv) Investments, and (v) loans and advances made or to be made by such Person, other than Ordinary Course Loans;

(e) owed to the Parent or any of its consolidated Subsidiaries;

(f) which has become Debt solely due to a change in Mexican FRS;

(g) to the extent resulting from the closing of, or funding under, a facilities agreement with CEMEX Espana, S.A. as Borrower, CEMEX Australia Holdings Pty Limited and CEMEX, Inc. as Original Guarantors, Banco Santander, S.A. and The Royal Bank of Scotland Plc as Documentation Agents, and The Royal Bank of Scotland Plc as Facility Agent, in an aggregate amount of up to U.S.$2,000,000,000 (or the equivalent thereof in other currencies) so long as the net proceeds of which are applied to repay, prepay or discharge existing bilateral debt; or

(h) any Guarantee Incurred by the Parent or any of its Subsidiaries for any of the Debt referred to in paragraphs (a) to (g) above.

"Permitted Liens" has the meaning specified in Section 8.02.

"Person" means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture or other business entity or Governmental Authority, whether or not having a separate legal personality.

"Prime Rate" means the average of the rate of interest publicly announced by each of the Reference Banks from time to time as its Prime Rate in New York City, the Prime Rate to change as and when such designated rate changes. The Prime Rate is not intended to be the lowest rate of interest charged by the Administrative Agent or any Lender in connection with extensions of credit to debtors of any class, or generally.

"Process Agent" has the meaning specified in Section 13.12(a).

"Professional Market Party" means a professional market party (*professionele marktpartij*) within the meaning of the Dutch Financial Supervision Act.

"Qualified Receivables Transaction" means a sale, transfer, or securitization of receivables and related assets by the Parent or its Subsidiaries, including a sale at a discount, provided that (i) such receivables have been sold, transferred or otherwise conveyed, directly or indirectly, by the originator thereof in a manner that satisfies the requirements for a sale, transfer or other conveyance under the laws and regulations of the jurisdiction in which such originator is organized; (ii) at the time of the sale, transfer or securitization of receivables is put in place, the receivables are derecognized from the balance sheet of the Parent or its Subsidiary in accordance with the generally accepted accounting principles applicable to such Person in effect as at the date of such sale, transfer or securitization; and (iii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or securitization is carried out on a non-recourse basis or on a basis where recovery is limited to the collection of receivables.

"Rating Agencies" means Moody's, S&P, and Fitch or if any of such Persons cease to perform credit ratings or other applicable services, such nationally recognized statistical rating organization the Administrative Agent may select.

"Recalculated EBITDA" has the meaning set forth under the definition of "EBITDA" in this Section 1.01.

"Reference Banks" shall mean three banks in the London interbank market, initially Citibank NA, HSBC Bank plc, and ING Bank NV.

"Reference Period" means any period of four consecutive fiscal quarters.

"Regulation T, U, or X" means Regulation T, U, or X, respectively, of the Board of Governors of the Federal Reserve Board as from time to time in effect and any successor to all or a portion thereof.

"Required Lenders" means, at any time, Lenders holding more than 50% of the aggregate principal amount of the outstanding Loans.

"Requirement of Law" means, as to any Person, any law, ordinance, rule, regulation or requirement of any Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Responsible Officer" of any Person means the Chief Financial Officer, the Corporate Planning and Finance Director, the Finance Director, the Comptroller of such Person or, in the case of the Borrower, any two directors or managing directors of the Borrower or any attorney-in-fact.

"Restricted Payment" means any cash dividend or other cash distribution with respect to any Capital Stock of the Parent, or any cash payment, including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Capital Stock, or on account of any return of capital to the Parent's stockholders.

"Reuters Page LIBOR01" means the display designated as "*LIBOR01*" on Reuters 3000 Xtra (or any successor service) or such other page as may replace Page LIBOR01 on Reuters 3000 Xtra or any successor service or such other service or services as may be nominated by the British Bankers' Association for the purpose of displaying London interbank offered rates for Dollar deposits.

"Solvent" means, with respect to any Person, that such Person (a) owns and will own assets the fair saleable value of which are (i) greater than the total amount of its debts and liabilities, subordinated, contingent or otherwise; and (ii) greater than the amount that will be required to pay the probable liabilities of its then existing debts, as such debts become absolute and matured and considering all financing alternatives and

potential asset sales reasonably available to it; (b) has capital that is not unreasonably small in relation to its business as presently conducted and as proposed to be conducted following the Conversion Date; (c) does not intend to incur and does not believe that it will incur debts beyond its ability to pay such debts as they become due; and (d) is not, or is not deemed to be, in general default of its obligations pursuant to the Mexican *Ley de Concursos Mercantiles*. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability. For the purposes of this definition "fair saleable value" means the aggregate amount of net consideration (giving effect to reasonable and customary costs of sale and taxes) that could be expected to be realized if the aggregate assets of the applicable entity are sold with reasonable promptness in an arm's length transaction under present conditions for the sale of assets of comparable business enterprises.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. and any successor thereto.

"Structuring Agent" has the meaning specified in the preamble hereto.

"Subsidiary" means with respect to any Person, any corporation, partnership, joint venture, limited liability company, trust, estate or other entity of which (or in which) more than 50% of (a) in the case of a corporation, the issued and outstanding Capital Stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time Capital Stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency not in the control of such Person), (b) in the case of a limited liability company, partnership or joint venture, the interest in the capital or profits of such limited liability company, partnership or joint venture or (c) in the case of a trust or estate, the beneficial interest in such trust or estate, is at the time directly or indirectly owned or controlled by (X) such Person, (Y) such Person and one or more of its other Subsidiaries or (Z) one or more of such Person's other Subsidiaries.

"Substitute Lender" means a commercial bank or other financial institution, acceptable to the Parent, the Lenders and the Administrative Agent, each in its sole discretion, and approved by the Structuring Agent (including such a bank or financial institution that is already a Lender hereunder), which assumes all or a portion of the Loan of a Lender pursuant to the terms of this Agreement.

"Successor" has the meaning specified in Section 8.03(a).

"Tax Related Person" means any Person whose income is realized through, or determined by reference to, the Administrative Agent or a Lender; provided that no Lender shall be deemed a Tax Related Person of the Administrative Agent, and the Administrative Agent shall not be deemed a Tax Related Person of any Lender.

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

"Temporary Investments" means, at any date, all amounts that would, in conformity with Applicable GAAP consistently applied, be set forth opposite the caption "cash and cash equivalent" ("*efectivo y equivalentes de efectivo*") or "temporary investments" ("*inversiones temporales*") on a consolidated balance sheet of the Parent at such date.

"Tender Offer" means any offer made by the Parent or any of its Subsidiaries to acquire at least 50.1% of the issued and outstanding shares of a target company or a controlling interest in such target company.

"Transaction Documents" means a collective reference to this Agreement, the Maturity "B" Notes, any Assignment and Assumption Agreement, the Conversion Notice and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto.

"United States" and "U.S." means the United States of America, including the States and the District of Columbia, but excluding its territories and possessions.

"U.S.$/Euro EBITDA" means any EBITDA of a Subsidiary of the Parent for a particular Reference Period which is generated in U.S.$ or Euros.

"U.S. Government Securities" means any security issued or guaranteed as to principal or interest by the United States, or by a Person controlled or supervised by and acting as an instrumentality of the government of the United States pursuant to authority granted by the Congress of the United States, in each case provided such security is rated "AAA" or the equivalent by each of the Rating Agencies.

"Value of Debt Currency Derivatives" means, on any given date, the aggregate mark-to-market value of Debt Currency Derivatives, expressed as a positive number (if, on a mark-to-market basis, such aggregate amount reflects a net amount owed to the Parent and its Subsidiaries) or as a negative number (if, on a mark-to-market basis, such aggregate amount reflects a net amount owed by the Parent and its Subsidiaries). For the avoidance of doubt, Value of Debt Currency Derivatives is net of any amounts pledged as cash collateral.

1.02 Other Definitional Provisions.

(a) The terms "including" and "include" are not limiting and mean "including but not limited to" and "include but are not limited to."

(b) The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, and Article, Section, paragraph, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(c) The meanings given to terms defined herein are equally applicable to both the singular and plural forms of such terms.

(d) In this Agreement, in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each means "to but excluding". Periods of days referred to in this Agreement shall be counted in calendar days unless Business Days or LIBOR Business Days are expressly prescribed.

(e) The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

1.03 Accounting Terms and Determinations.

(a) All accounting and financing terms not specifically defined herein shall be construed in accordance with Mexican FRS or, if the context shall require, Applicable GAAP.

(b) Calculations with respect to the Consolidated Net Debt / EBITDA Ratio and the Adjusted Consolidated Net Tangible Assets and the defined terms used in such calculations, when made in relation to dates other than the last day of a fiscal quarter, shall be made by the Borrower acting in good faith by reference to (i) the most recently available financial statements of the Borrower and its Subsidiaries (including, to the extent available, unaudited monthly financial information) as of such date and (ii) events, conditions and circumstances occurring or existing subsequent to such financial statements.

ARTICLE II
THE LOAN FACILITIES

2.01 Loans.

(a) Loans. Subject to the terms and conditions set forth herein, on the Conversion Date, each Lender severally agrees to convert its Dutch Loan under the Dutch Loan "B" Agreement existing on the date hereof to a loan hereunder (each a " Loan" and together the "Loans"). The principal amount of each Lender's Loan hereunder shall be equal to the principal amount of its Dutch Loan as of the Conversion Date and shall be set forth on Schedule 2.01(a). Each Lender's Loan shall be evidenced by a duly executed note in favor of such Lender in the form of Exhibit A attached hereto (each, a "Maturity "B" Note" and, collectively, the "Maturity "B" Notes").

(b) Repayment. The principal amount of the Loans, together with any accrued and unpaid interest, shall be due and payable in full, and the Borrower hereby agrees to pay such amount in full, on the Maturity Date.

(c) Prepayment. The Loans may be repaid in whole or in part without premium or penalty; provided that (i) the Loans may be prepaid only upon five (5) Business Days' prior written notice to the Administrative Agent, and (ii) partial prepayments shall be in minimum principal amounts of U.S.$10,000,000. All such prepayments shall be accompanied by the payment of all accrued interest thereon together with, if such prepayment is made on any date other than a scheduled Interest Payment Date, any funding losses as provided in Section 3.03.

(d) Payments. Each payment of principal with respect to the Loans shall be paid to the Administrative Agent for the ratable benefit of each Lender. No payment with respect to the Loans may be reborrowed.

(e) Continuation. All Loans shall be subject to the terms of the definition of "Interest Period" set forth in Section 1.01. The Loans initially shall have the Interest Period specified in the Conversion Notice. No later than 10:00 a.m. (New York City time) on the third Business Day prior to the end of any Interest Period for the Loans, the Borrower shall deliver to the Administrative Agent a Notice of Continuation (or telephone notice promptly confirmed in writing) of the Interest Period to be effective for the Loans immediately after the then current Interest Period; provided, however, that if the Borrower fails to specify the subsequent Interest Period by the deadline specified above, the Borrower shall be deemed to have requested that such Interest Period be three (3) months. Each Notice of Continuation shall be irrevocable. Promptly after receipt of a Notice of Continuation under this Section 2.01(e), the Administrative Agent shall notify each Lender by telecopy or other similar form of transmission of the proposed continuation.

2.02 Interest.

(a) Loans. Subject to Section 2.02(c), the Loans shall bear interest at a rate per annum equal to LIBOR plus the Applicable Margin.

(b) Interest Deferral. The Borrower may not defer interest payments on the Loans.

(c) Default Interest. If any principal of, or interest on, the Loans or any fee or other amount payable by any Credit Party with respect to the Loans is not paid when due, whether at stated maturity, upon acceleration, or otherwise, such overdue amount shall bear interest from the date of such Event of Default, after as well as before judgment, to the day of actual receipt of such sum by the Administrative Agent at a rate per annum equal to 2% plus the rate applicable to the Loans as provided above.

So long as the Event of Default continues, the default interest rate shall be recalculated on the same basis at intervals of such duration as the Administrative Agent may select, provided that the amount of unpaid interest at the above rate accruing during the preceding period (or such longer period as may be the shortest period permitted by applicable law for the capitalization of interest) shall be added to the amount in respect of which such Person is in default.

(d) Payment of Interest. Accrued interest on the Loans shall be payable in arrears on each Interest Payment Date; provided that in the event of any repayment or prepayment of the Loans, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment.

(e) Computation. All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Base Rate at times when the Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Base Rate or LIBOR rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

2.03 Fees.

(a) Calculation. A facility fee shall accrue and be payable in arrears to each Consenting Lender for each Calculation Period in an amount equal to the percentage per annum determined in accordance with the table below (the " Facility Fee"), and shall be applied to such Lender's Average Drawn Commitments for such Calculation Period and will accrue on, and be calculated based on, the number of days elapsed in such Calculation Period. The Facility Fee for each Calculation Period will be as set forth below determined in accordance with the Consolidated Net Debt / EBITDA Ratio calculated based on the financial statements delivered, or required to be delivered, on the applicable Calculation Date:

Consolidated Net Debt / EBITDA Ratio	Facility Fee
Greater than 4.50 to 1	2.00%
Less than or equal to 4.50 to 1, but greater than 4.00 to 1	1.25%
Less than or equal to 4.00 to 1, but greater than 3.75 to 1	0.75%
Less than or equal to 3.75 to 1, but greater than 3.50 to 1	0.5%
Less than or equal to 3.50 to 1	0%

(b) Payment of Fees. The Facility Fee shall be payable within five Business Days after the Calculation Date applicable to each relevant Calculation Period (the "Facility Fee Payment Date"); provided that, in respect of any Calculation Period in which the Loans are repaid or prepaid in full, the Facility Fee Payment Date in respect of such Calculation Period shall be deemed to occur on the date of such repayment or prepayment. Notwithstanding the above, no Facility Fee shall be payable in respect of any Calculation Period in which an acceleration of any Loan occurs or any fiscal quarter thereafter.

ARTICLE III
TAXES, PAYMENT PROVISIONS

3.01 Taxes.

(a) Any and all payments by any Credit Party to any Lender, the Joint Lead Arrangers or the Administrative Agent under this Agreement and the other Transaction Documents shall be made free and clear of, and without deduction or withholding for or on account of, any Indemnified Taxes. In addition, Borrower shall promptly pay all Other Taxes.

(b) Except as otherwise provided in Section 3.01(c), the Credit Parties jointly and severally agree to indemnify and hold harmless each Lender and the Administrative Agent for the full amount of Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) paid by or assessed against any Lender or the Administrative Agent, as the case may be, and any penalties, interest, additions to tax, and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority, except to the extent that such penalties, interest, additions to tax or expenses are incurred solely as a result of any gross negligence or willful misconduct of such Lender, or Administrative Agent, as the case may be. Payment under this indemnification shall be made within thirty (30) days after the date any Lender or the Administrative Agent makes written demand therefor, setting forth in reasonable detail the basis and calculation of such amounts (such written demand shall be presumed correct, absent significant error).

(c) If any Credit Party shall be required by law or regulation to deduct or withhold any Indemnified Taxes or Other Taxes from or in respect of any sum payable hereunder to any Lender or the Administrative Agent, then:

(i) the sum payable shall be increased as necessary so that after making all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable under this Section 3.01(c)) such Lender or the Administrative Agent receives an amount equal to the sum it would have received had no such deductions or withholdings been made;

(ii) such Credit Party shall make such deductions and withholdings; and

(iii) such Credit Party shall pay the full amount deducted or withheld to the relevant taxing authority or other authority in accordance with applicable law.

(d) Within thirty (30) days after the date of any payment by a Credit Party of Indemnified Taxes or Other Taxes, such Credit Party shall furnish to the Administrative Agent the original or a certified copy of a receipt evidencing payment thereof or other evidence of payment reasonably satisfactory to the Administrative Agent.

(e) If any Credit Party is required to pay additional amounts to the Administrative Agent or any Lender pursuant to Section 3.01(c), other than amounts related to the withholding of Mexican tax at the rate applicable to interest payments received by foreign financial institutions registered with the Secretaría de Hacienda y Crédito Público as a Foreign Financial Institution for the purposes of Article 195, Section I of the Mexican Income Tax law, then the Administrative Agent or such Lender, as the case may be, shall, upon reasonable request by the Borrower or the Guarantors, use reasonable efforts (consistent with legal and regulatory restrictions) to change the jurisdiction of its Lending Office, issuing office or office for receipt of payments by the Borrower and Guarantors hereunder, as the case may be, so as to eliminate or reduce the obligation of the Borrower or the Guarantor, as the case may be, to pay any such additional amounts which may thereafter accrue or to indemnify the Administrative Agent or such Lender in the future, if such change in the reasonable judgment of the Administrative Agent or such Lender is not otherwise disadvantageous to such Lender. No Credit Party shall be required to pay or increase any amounts payable pursuant to Section 3.01 following any assignment or grant of a participation by any Lender, except to the extent (i) not in excess of the amounts the Borrower and Guarantors were required to pay or increase with respect to such Lender immediately prior to such an event, or (ii) increases in such amounts result from a change in applicable law or regulation occurring after such event.

(f) Each Lender and the Administrative Agent shall, from time to time at the request of the Borrower or the Administrative Agent (as the case may be), promptly furnish to the Borrower and the Administrative Agent (as the case may be), such forms, documents or other information (which shall be accurate and complete) as may be reasonably required to establish any available exemption from, or reduction in the amount of, applicable Taxes; provided, however, that none of any Lender or the Administrative Agent shall be obliged to disclose information regarding its tax affairs or computations to the Borrower in connection with this paragraph (f), it being understood that the identity of any Person shall not be considered for these purposes as information regarding its tax affairs or computations. Each of the Borrower and the Administrative Agent shall be entitled to rely on the accuracy of any such forms, documents or other information furnished to it by any Person and shall have no obligation to make any additional payment or indemnify any Person for any Taxes, interest or penalties that would not have become payable by such Person had such documentation been accurate.

(g) If the Administrative Agent or any Lender receives a refund or credit in respect of Indemnified Taxes as to which it has been indemnified by any Credit Party pursuant to Section 3.01(b), it shall notify the Credit Party of the amount of such refund or credit and shall return to the Credit Party such refund or the benefit of such credit; provided, however, that (A) the Administrative Agent or such Lender, as the case may be, shall not be obligated to make any effort to obtain such refund or credit or to provide any Credit Party with any information on or justification for the arrangement of its tax affairs or otherwise disclose to the Credit Party or any other Person any information that it considers to be proprietary or confidential, and (B) the Credit Party, upon the request of the Administrative Agent or such Lender, as the case may be, shall return the amount of such refund or the benefit of such credit to the Administrative Agent or such Lender, as the case may be, if the Administrative Agent or such Lender, as the case may be, is required to repay the amount of such refund or the benefit of such credit to the relevant authorities within six (6) years of the date the Credit Party is paid such amount by the Administrative Agent or such Lender, as the case may be.

(h) If requested by any Lender that is a resident of the United States for U.S. federal income tax purposes, the Credit Parties will perform an analysis as to whether the Borrower constitutes a passive foreign investment company within the meaning of Section 1297 of the Code and will take into account reasonable comments from such Lender with respect to such analysis. The Lender will have sole discretion to decide whether to make a "QEF election" (as described in Section 1293 of the Code) with respect to its interest in the Loans. For the avoidance of doubt, if based on such analysis the Lender decides to make a QEF election, the Credit Parties will provide the information necessary for making such election, as described in this Section 3.01(h). The Credit Parties will (i) maintain adequate books and records to allow any Lender that would be subject to Section 1291 of the Code with respect to its interest in the Loans to make a proper QEF election and (ii) will further provide annual information statements and any other information to any such Lender if such information is necessary for purposes of making the QEF election or complying with the ongoing requirements associated with such election.

(i) The agreements in this Section 3.01 shall survive the termination of this Agreement and the payment of the Borrower's Obligations.

3.02 General Provisions as to Payments.

(a) All payments to be made by any Credit Party shall be made without set-off, counterclaim or other defense. Except as otherwise expressly provided herein, all payments by the Borrower shall be made to the Administrative Agent for the account of the Lenders at the Administrative Agent's Payment Office, and shall be made in Dollars and in immediately available funds, no later than 2:30 p.m. (New York City time) on the

dates specified herein. The Administrative Agent will promptly distribute to each Lender its applicable share as expressly provided herein of each payment in like funds as received. Any payment received by the Administrative Agent later than 2:30 p.m. (New York City time) shall be deemed to have been received on the following Business Day and any applicable interest or fee shall continue to accrue until such following Business Day.

(b) Except and to the extent otherwise specifically provided herein, whenever any payment to be made hereunder is due on a day which is not a Business Day, the date for payment thereof shall be extended to the immediately following Business Day and, if interest is stated to be payable in respect thereof, interest shall continue to accrue to such immediately following Business Day.

(c) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Lenders hereunder that the Borrower will not make such payment in full, the Administrative Agent may assume that the Borrower has made such payment in full to the Administrative Agent on such date and the Administrative Agent may (but shall not be so required), in reliance upon such assumption, cause to be distributed to the Lenders on such due date an amount equal to the amount then due to the Lenders. If and to the extent that the Borrower shall not have made such payment, each applicable Lender shall repay to the Administrative Agent forthwith on demand such amount distributed to such Lender together with accrued interest thereon, for each day from the date such amount is distributed to such Lender until the date such Lender repays such amount to the Administrative Agent, at the Federal Funds Rate; provided, however, that if any amount remains unpaid by any Lender for more than five (5) Business Days after the Administrative Agent has made a demand for such amount, such Lender shall, commencing on the day next following such fifth Business Day, pay interest to the Administrative Agent at a rate per annum equal to the Federal Funds Rate plus 1%, and, provided further, that if any such amount remains unpaid by any Lender for more than ten (10) Business Days, such Lender shall, commencing on the day next following such tenth Business Day, pay interest to the Administrative Agent at a rate per annum equal to the Federal Funds Rate plus 2.00%.

3.03 Funding Losses. If the Borrower makes any payment of principal with respect to the Loans on any day other than the Interest Payment Date applicable thereto, or if the Borrower fails to prepay the Loans after notice has been given pursuant to Section 2.01(c), the Borrower shall reimburse each Lender, as applicable, within fifteen (15) days after demand for any resulting loss or expense incurred by it, provided such Lender shall have delivered to the Borrower a certificate setting forth in reasonable detail the computations for the amount of such loss or expense, which certificate shall be conclusive in the absence of manifest error.

3.04 Basis for Determining Interest Rate Inadequate or Unfair . If on or prior to the first day of any Interest Period for the Loans:

(a) the Administrative Agent determines that by reason of circumstances affecting the London interbank market, reasonably adequate means do not exist for ascertaining LIBOR applicable to such Interest Period or that deposits in Dollars (in the applicable amounts) are not being offered in the London interbank market for such Interest Period, or

(b) the Required Lenders advise the Administrative Agent that LIBOR as determined by the Administrative Agent will not adequately and fairly reflect the cost to such Lenders of making or maintaining their respective Loan for such Interest Period, then the Administrative Agent shall forthwith give notice thereof to the Borrower and the Lenders. In the event of any such determination or advice, until the Administrative Agent shall have notified the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, any request by the Borrower for a Loan of the affected amount or Interest Period, or a conversion to or continuation of a Loan of the affected amount or Interest Period shall be deemed rescinded and such request shall instead be considered a request for a Base Rate Loan. Each determination by the Administrative Agent hereunder shall be conclusive absent manifest error.

3.05 Capital Adequacy. If any Lender has determined, after the date hereof, that the adoption or the becoming effective of, or any change in, or any change by any Governmental Authority, central bank, or comparable agency charged with the interpretation or administration thereof in the interpretation or administration of, any applicable law, rule, or regulation regarding capital adequacy, or compliance by such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank, or comparable agency, has or would have the effect of increasing such Lender's cost of making or maintaining such Lender's Loan or reducing the rate of return on such Lender's capital or assets as a consequence of its obligations hereunder to a level below that which such Lender could have achieved but for such adoption, effectiveness, change, or compliance (taking into consideration such Lender's policies with respect to capital adequacy), then, upon notice from such Lender to the Borrower, the Borrower shall be obligated to pay to such Lender such additional amount or amounts as will compensate such Lender for such increased cost or reduction in amount received. Each determination by any such Lender of amounts owing under this Section 3.05 shall, absent manifest error, be conclusive and binding on the parties hereto. The relevant Lender will, upon request, provide a certificate in reasonable detail as to the amount of such increased cost or reduction in amount received and method of calculation.

Upon any Lender's making a claim for compensation under this Section 3.05, (i) such Lender shall use commercially reasonable efforts (consistent with legal and regulatory restrictions) to change the jurisdiction of its lending office or assign its rights and obligations hereunder to another of its offices, branches or affiliates so as to eliminate or reduce any such additional payment by the Borrower which may thereafter accrue, if such change is not otherwise disadvantageous to such Lender and (ii) the Borrower has the right to replace such Lender in accordance with Section 3.08.

3.06 Illegality.

(a) Notwithstanding any other provision herein, if the adoption of or any change in any Requirement of Law or in the interpretation or application thereof occurring after the Conversion Date shall make it unlawful for any Lender to make or maintain any Loan as contemplated by this Agreement, then such Lender shall be an "Affected Lender" and by written notice to the Borrower and to the Administrative Agent:

(i) such Lender may require that all outstanding Loans made by it be converted to Base Rate Loans, in which event all such Loans shall be automatically converted to Base Rate Loans as of the effective date of such notice as provided in paragraph (b) below, and

(ii) if it is also illegal for the Affected Lender to make Base Rate Loans, such Lender may declare all amounts owed to it by the Borrower to the extent of such illegality to be due and payable; provided, however, that the Borrower has the right, with the consent of the Administrative Agent, to find an additional Lender to purchase the Affected Lenders' rights and obligations.

In the event any Lender shall exercise its rights under (i) above with respect to any Loans, all payments and prepayments of principal that would otherwise have been applied to repay the converted Loans of such Lender shall instead be applied to repay the Base Rate Loans resulting from the conversion of such Loans.

(b) For purposes of this Section 3.06, a notice to the Borrower by any Lender shall be effective as to each such Loan, if lawful, on the last day of the Interest Period currently applicable to such loan; in all other cases such notice shall be effective on the date of receipt by the Borrower.

3.07 Requirements of Law. If, after the date hereof, the adoption of or any change in any Requirement of Law or in the interpretation or application thereof applicable to any Lender, or compliance by any Lender with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority, in each case made subsequent to the Conversion Date (or, if later, the date on which such Lender becomes a Lender):

(a) shall impose, modify, or hold applicable any reserve, special deposit, compulsory loan, or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans, or other extensions of credit by, or any other acquisition of funds by, any office of such Lender that is not otherwise included in the determination of the LIBOR hereunder; or

(b) shall impose on such Lender any other condition (excluding any tax of any kind whatsoever);

and the result of any of the foregoing is to increase the cost to such Lender, by an amount that such Lender reasonably deems to be material, of making, converting into, continuing, or maintaining Loans or to reduce any amount receivable hereunder in respect thereof, then, in any such case, upon notice delivered to the Borrower from such Lender, through the Administrative Agent, in accordance herewith, the Borrower shall be obligated to promptly pay such Lender, upon its demand, any additional amounts necessary to compensate such Lender for such increased cost or reduced amount receivable. If any Lender becomes entitled to claim any additional amounts pursuant to this Section 3.07, it shall provide notice thereof to the Borrower, promptly upon occurrence of such event, but in any case within three (3) days from the date of such event, through the Administrative Agent, certifying (x) that one of the events described in paragraph (a) and (b) has occurred and describing in reasonable detail the nature of such event, (y) as to the increased cost or reduced amount resulting from such event and (z) as to the additional amount demanded by such Lender and a reasonably detailed explanation of the calculation thereof. Such a certificate as to any additional amounts payable pursuant to this subsection submitted by such Lender, through the Administrative Agent, to the Borrower shall be conclusive and binding on the parties hereto in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder. If any Lender becomes aware of a proposed change in any Requirement of Law that would entitle it to claim any additional amounts pursuant to this Section 3.07 it shall promptly, upon the Lender becoming aware of such event, provide notice to the Borrower through the Administrative Agent.

3.08 Substitute Lenders. If any Lender has demanded compensation pursuant to Sections 3.05 or 3.07 or has exercised its rights pursuant to Section 3.06(a)(ii), and such Lender does not waive its right to future additional compensation pursuant to Section 3.05 or 3.07, the Borrower shall have the right (i) to replace such Lender with a Substitute Lender or Substitute Lenders that shall succeed to the rights of such Lender under this Agreement upon execution of an Assignment and Assumption Agreement and payment by the Borrower of the related processing fee of U.S.$3,500 to the Administrative Agent or (ii) to remove such Lender; provided, however, that such Lender shall not be replaced or removed hereunder until such Lender has been repaid in full all amounts owed to it pursuant to this Agreement (including Sections 3.03 and 3.05) and the other Transaction Documents unless any such amount is being contested by the Borrower in good faith.

3.09 Sharing of Payments in connection with the Loans, Etc.

(a) If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the Obligations owing to it any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) in excess of its share of payments on account of the Obligations obtained by all the Lenders (an "Excess Payment"), such Lender shall forthwith (i) notify the Administrative Agent of such fact, and (ii) purchase from the other Lenders such participations in such Obligations owing to them as shall be necessary to cause such purchasing Lender to share the excess payment

ratably with each of them; provided, however, that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender, such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's share (according to the proportion of (A) the amount of such paying Lender's required repayment to (B) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of demonstrable error) of participations purchased pursuant to this Section 3.09 and will in each case notify the Lenders following any such purchases.

(b) If any Lender shall commence any action or proceeding in any court to enforce its rights hereunder after consultation with the other Lenders and, as a result thereof or in connection therewith, it shall receive any Excess Payment, then such Lender shall not be required to share any portion of such excess payment with any Lender which has the legal right to, but does not, join in any such action or proceeding or commence and diligently prosecute a separate action or proceeding to enforce its rights in another court.

(c) The Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section 3.09 may exercise all its rights of set-off with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation.

ARTICLE IV
CONDITIONS PRECEDENT

The obligations of the Lenders under this Agreement are subject to the satisfaction or waiver of the following conditions precedent (the date on which all such conditions precedent are satisfied or waived being the "Conversion Date"):

4.01 Loan Documents. The Administrative Agent shall have received, on or before the Conversion Date, counterparts of each of the following documents duly executed and delivered by each party thereto, and in full force and effect and reasonably satisfactory to the Administrative Agent:

(a) this Agreement;

(b) Maturity "B" Notes executed by the Borrower for the account of each Lender; and

(c) the Conversion Notice.

4.02 Opinions of Borrower's and each Guarantor's Counsel. The Administrative Agent shall have received:

(a) the opinion of special New York counsel to the Credit Parties substantially in the form of Exhibit D hereto;

(b) the opinion of in-house counsel to the Credit Parties substantially in the form of Exhibit E hereto; and

(c) the opinion of special Dutch counsel to the Credit Parties substantially in the form of Exhibit F hereto.

4.03 Representations and Warranties. The representations and warranties of each Credit Party contained in this Agreement and each other Transaction Document shall be true on and as of the Conversion Date, and each Credit Party shall have provided a certificate to such effect to the Administrative Agent.

4.04 Conditions to Conversion. All of the conditions precedent to conversion set forth in Section 4.03 of the Dutch Loan "B" Agreement have been satisfied or waived by the Lenders.

4.05 Officer's Certificate. The Borrower shall deliver an Officer's Certificate stating that all conditions precedent set forth in this Article IV have been fully satisfied or waived.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF THE BORROWER

The Borrower represents and warrants that:

5.01 Corporate Existence and Power.

(a) The Borrower is a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation and has all requisite corporate power and authority (including all governmental licenses, permits and other approvals except for such licenses, permits and approvals the absence of which will not have a Material Adverse Effect) to own its assets and carry on its business as now conducted and as proposed to be conducted.

(b) All of the outstanding stock of the Borrower has been validly issued and is fully paid and non-assessable.

(c) The Borrower is in full compliance with the applicable provisions of the Dutch Financial Supervision Act.

5.02 Power and Authority; Enforceable Obligations.

(a) The execution, delivery and performance by the Borrower of each Transaction Document to which it is or will be a party, and the consummation of the

transactions contemplated hereby and thereby (including the conversion of the Dutch Loans), are within the Borrower's corporate powers and have been duly authorized by all necessary corporate action.

(b) This Agreement and the other Transaction Documents to which the Borrower is a party have been duly executed and delivered by the Borrower and constitute the legal, valid and binding obligations of the Borrower enforceable in accordance with their respective terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equity principles.

5.03 Compliance with Law and Other Instruments. The execution, delivery of and performance under this Agreement and each of the other Transaction Documents to which the Borrower is a party and the consummation of the transactions herein or therein contemplated, and compliance with the terms and provisions hereof and thereof, do not and will not (a) conflict with, or result in a breach or violation of, or constitute a default under, or result in the creation or imposition of any Lien upon the assets of the Borrower pursuant to, any Contractual Obligation of the Borrower or (b) result in any violation of the *statuten* of the Borrower or any provision of any Requirement of Law applicable to the Borrower.

5.04 Consents/Approvals. No order, permission, consent, approval, license, authorization, registration or validation of, or notice to or filing with, or exemption by, any Governmental Authority or third party is required to authorize, or is required in connection with, the execution, delivery and performance by the Borrower of this Agreement and the other Transaction Documents to which the Borrower is a party or the taking of any action contemplated hereby or by any other Transaction Document.

5.05 No Immunity. The Borrower and the Parent are subject to civil and commercial law with respect to its obligations under this Agreement and each other Transaction Document to which it is a party and the execution, delivery and performance of this Agreement or any such other Transaction Document by the Borrower and the Parent constitute private and commercial acts rather than public or governmental acts. Under the laws of Mexico or The Netherlands (as applicable) none of the Credit Parties nor any of their property has any immunity from jurisdiction of any court or any legal process (whether through service or notice, attachment prior to judgment or attachment in aid of execution).

5.06 Governmental Regulations.

(a) The Borrower is not, and is not controlled by, an "investment company" within the meaning of the United States Investment Company Act of 1940, as amended or

(b) The Borrower is not subject to regulation under the Public Utility Holding Company Act of 2005, as amended ("PUHCA") that would have the effect of preventing the execution and performance, or the enforceability, of its obligations under each Transaction Document to which it is a party.

5.07 Direct Obligations; Pari Passu.

(a) This Agreement constitutes a direct, unconditional unsubordinated and unsecured obligation of the Borrower.

(b) The Loans, when made, will constitute direct, unconditional unsubordinated and unsecured obligations of the Borrower.

5.08 No Recordation Necessary.

(a) This Agreement and the Maturity "B" Notes are in proper legal form under the law of Mexico for the enforcement thereof against the Borrower under the laws of Mexico or, as the case may be, The Netherlands. To ensure the legality, validity, enforceability or admissibility in evidence of this Agreement and each other Transaction Document in Mexico or, as the case may be, The Netherlands, it is not necessary that this Agreement or any other Transaction Document be filed or recorded with any Governmental Authority in Mexico or any Governmental Authority in The Netherlands or that any stamp or similar tax be paid on or in respect of this Agreement or any other document to be furnished under this Agreement, unless such stamp or similar taxes have been paid by the Borrower; provided, however, that in the event any legal proceedings are brought in the courts of Mexico, an official Spanish translation of the documents required in such proceedings, including this Agreement, would have to be approved by the court after the defendant is given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents.

(b) It is not necessary (i) in order for the Administrative Agent or any Lender to enforce any rights or remedies under the Transaction Documents or (ii) solely by reason of the execution, delivery and performance of this Agreement by the Administrative Agent or any Lender, that the Administrative Agent or such Lender be licensed or qualified with any Mexican Governmental Authority or be entitled to carry on business in Mexico.

5.09 Choice of Law; Submission to Jurisdiction and Waiver of Sovereign Immunity. In any action or proceeding involving the Borrower arising out of or relating to this Agreement in any Mexican or Dutch court or tribunal, any Lender, the Structuring Agent, the Joint Lead Arrangers and the Administrative Agent would be entitled to the recognition and effectiveness of the choice of law, submission to jurisdiction and waiver of sovereign immunity provisions of Sections 13.10, 13.11 and 13.13.

5.10 Margin Regulations. No part of the proceeds of the Loans hereunder will be used, directly or indirectly, for the purpose of purchasing or carrying any "margin stock" within the meaning of Regulation U, except in compliance with Regulation U. If

requested by any Lender or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form U-1 referred to in said Regulation U. No indebtedness being reduced or retired out of the proceeds of the Loan hereunder was or will be incurred for the purpose of purchasing or carrying any margin stock within the meaning of Regulation U except in compliance with Regulation U or any "margin security" within the meaning of Regulation T, except in compliance with Regulation T. Neither the execution and delivery hereof by the Borrower, nor the performance by it of any of the transactions contemplated by this Agreement (including, without limitation, the direct or indirect use of the proceeds of the Loans) will violate or result in a violation of the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or regulations issued pursuant thereto, or Regulation T, U, or X.

5.11 Solvency. The Borrower is and, after giving effect to the Loans and each of the transactions contemplated by this Agreement and the Transaction Documents, will be, Solvent.

5.12 Dutch Works Council Act. The Borrower has not established, is not in the process of establishing nor has it received a request to establish a works council in accordance with the provisions of the Dutch Works Council Act (*Wet op de ondernemingsraden*).

ARTICLE VI
REPRESENTATIONS AND WARRANTIES OF THE GUARANTORS

Each of the Guarantors separately represents and warrants that:

6.01 Corporate Existence and Power.

(a) Such Guarantor is a corporation (*sociedad anónima de capital variable* or *sociedad anónima bursátil de capital variable*) duly incorporated and validly existing under the laws of Mexico and has all requisite corporate power and authority (including all governmental licenses, permits and other approvals except for such licenses, permits and approvals the absence of which will not have a Material Adverse Effect) to own its assets and carry on its business as now conducted and as proposed to be conducted.

(b) All of the outstanding stock of such Guarantor has been validly issued and is fully paid and non-assessable.

6.02 Power and Authority; Enforceable Obligations.

(a) The execution, delivery and performance by such Guarantor of each Transaction Document to which it is or will be a party, and the consummation of the transactions contemplated hereby and thereby (including the conversion of the Dutch Loans), are within such Guarantor's corporate powers and have been duly authorized by all necessary corporate action pursuant to the *estatutos sociales* of such Guarantor.

(b) This Agreement and the other Transaction Documents to which such Guarantor is a party have been duly executed and delivered by such Guarantor and constitute legal, valid and binding obligations of such Guarantor enforceable in accordance with their respective terms, except as enforceability may be limited by applicable *concurso mercantil*, bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equity principals.

6.03 Compliance with Law and Other Instruments. The execution, delivery and performance of this Agreement and any of the other Transaction Documents to which such Guarantor is a party and the consummation of the transactions herein or therein contemplated, and compliance with the terms and provisions hereof and thereof, do not and will not (a) conflict with, or result in a breach or violation of, or constitute a default under, or result in the creation or imposition of any Lien upon the assets of such Guarantor pursuant to, any Contractual Obligation of such Guarantor or (b) result in any violation of the *estatutos sociales* of such Guarantor or any provision of any Requirement of Law applicable to such Guarantor.

6.04 Consents/Approvals. No order, permission, consent, approval, license, authorization, registration or validation of, or notice to or filing with, or exemption by, any Governmental Authority or third party is required to authorize, or is required in connection with, the execution, delivery and performance by such Guarantor of this Agreement and the other Transaction Documents to which such Guarantor is a party or the taking of any action contemplated hereby or by any other Transaction Document.

6.05 No Immunity. Such Guarantor is subject to civil and commercial law with respect to its obligations under this Agreement and each other Transaction Document to which it is a party and the execution, delivery and performance of this Agreement or any such other Transaction Document by such Guarantor constitute private and commercial acts rather than public or governmental acts. Under the laws of Mexico neither such Guarantor nor any of its property has any immunity from jurisdiction of any court or any legal process (whether through service or notice, attachment prior to judgment or attachment in aid of execution).

6.06 Governmental Regulations.

(a) Such Guarantor is not, and is not controlled by, an "investment company" within the meaning of the United States Investment Company Act of 1940, as amended; or

(b) Such Guarantor is not subject to regulation under the Public Utility Holding Company Act of 2005, as amended ("PUHCA") that would have the effect of preventing the execution and performance, or the enforceability, of its obligations under each Loan Document to which it is a party.

6.07 Direct Obligations; Pari Passu.

(a) This Agreement constitutes a direct, unconditional unsubordinated and unsecured obligation of such Guarantor.

(b) The obligations of such Guarantor under this Agreement rank and will rank in priority of payment at least *pari passu* with all other senior unsecured Debt of such Guarantor.

6.08 No Recordation Necessary. This Agreement is in proper legal form under the law of Mexico for the enforcement thereof against such Guarantor under the law of Mexico. To ensure the legality, validity, enforceability or admissibility in evidence of this Agreement and each other Transaction Document in Mexico, it is not necessary that this Agreement or any other Transaction Document be filed or recorded with any Governmental Authority in Mexico or that any stamp or similar tax be paid on or in respect of this Agreement or any other document to be furnished under this Agreement unless such stamp or similar taxes have been paid by a Credit Party; provided, however, that in the event any legal proceedings are brought in the courts of Mexico, an official Spanish translation of the documents required in such proceedings, including this Agreement, would have to be approved by the court after the defendant is given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents.

6.09 Choice of Law; Submission to Jurisdiction and Waiver of Sovereign Immunity. In any action or proceeding involving such Guarantor arising out of or relating to this Agreement in any Mexican court or tribunal, the Lenders, the Structuring Agent, the Joint Lead Arrangers and the Administrative Agent would be entitled to the recognition and effectiveness of the choice of law, appointment of process agent, submission to jurisdiction and waiver of sovereign immunity provisions of Sections 13.10, 13.12, 13.11 and 13.13.

6.10 Solvency. Each Guarantor is and, after giving effect to the Loans and each of the transactions contemplated by this Agreement and the Transaction Documents, each of the Guarantors will be, Solvent.

ARTICLE VII
AFFIRMATIVE COVENANTS APPLICABLE TO THE LOANS

Each Credit Party covenants and agrees for the benefit of the Lenders that, until all Obligations owed to the Lenders are paid in full, it will, unless waived in writing by the Required Lenders pursuant to the provisions set forth in Section 13.02:

7.01 Financial Reports and Other Information. The Borrower will deliver to the Administrative Agent (with a copy for each Lender):

(a) as soon as available and in any event within 120 days after the end of each fiscal year of the Parent, a copy of the annual audit report for such year for the Parent and its Subsidiaries containing consolidated and consolidating balance sheets of the Parent and its Subsidiaries, as of the end of such fiscal year and consolidated statements of income and cash flows of the Parent and its Subsidiaries, for such fiscal year, in each case accompanied by an opinion acceptable to the Required Lenders by KPMG Cardenas Dosal, S.C. or other independent public accountants of recognized standing acceptable to the Required Lenders, together with (i) a certificate of such accounting firm to the Lenders stating that in the course of the regular audit of the business of the Parent and its Subsidiaries, which audit was conducted by such accounting firm in accordance with Applicable GAAP, such accounting firm has obtained no knowledge that a Default or Event of Default has occurred and is continuing, or if, in the opinion of such accounting firm a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and (ii) a certificate of a Responsible Officer of the Parent, stating that no Default or Event of Default has occurred and is continuing or, if a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and the action that the Credit Parties have taken and proposes to take with respect thereto; provided that in the event of any change in the Applicable GAAP used in the preparation of such financial statements, the Parent shall also provide, for informational purposes only, a statement of reconciliation conforming such financial statements to Applicable GAAP consistent with those applied in the preparation of the financial statements referred to in Section 4.01(b) of the Dutch Loan "B" Agreement and provided further that all such documents will be prepared in English; and

(b) as soon as available and in any event within sixty (60) days after the end of each of the first three quarters of each fiscal year of the Parent, consolidated balance sheets of the Parent and its Subsidiaries, as of the end of such quarter and consolidated statements of income and cash flows of the Parent and its Subsidiaries for the period commencing at the end of the previous fiscal year and ending with the end of such quarter, duly certified (subject to year-end audit adjustments) by any Responsible Officer of the Parent as having been prepared in accordance with Applicable GAAP and together with a certificate of a Responsible Officer of the Parent, as to compliance with the terms of this Agreement and stating that no Default or Event of Default has occurred and is continuing or, if a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and the action that the Parent has taken and proposes to take with respect thereto; provided that in the event of any change in the Applicable GAAP used in the preparation of such financial statements, the Parent shall also provide, for informational purposes only, a statement of reconciliation conforming such financial statements to Applicable GAAP consistent with those applied in the preparation of the financial statements referred to in Section 4.01(b) of the Dutch Loan "B" Agreement and provided further that all such documents will be prepared in English.

7.02 Notice of Default and Litigation. The Borrower will furnish to the Administrative Agent (and the Administrative Agent will notify each Lender):

(a) as soon as practicable and in any event within five (5) days after the occurrence of each Default or Event of Default continuing on the date of such statement, a statement of the Responsible Officer of any Credit Party setting forth details of such Default or Event of Default and the action that the Borrower has taken and proposes to take with respect thereto; and

(b) promptly after commencement thereof, notice of all Litigation affecting the Credit Parties or any of their Subsidiaries or the receipt of written notice by the Credit Parties or any of their Subsidiaries of potential liability or responsibility for violation, or alleged violation of any federal, state or local law, rule or regulation (including but not limited to Environmental Laws) the violation of which could reasonably be expected to have a Material Adverse Effect.

7.03 Compliance with Laws and Contractual Obligations, Etc .. Each of the Credit Parties will comply, and cause each of its Subsidiaries to comply, in all material respects, with all applicable Requirements of Law (including with respect to the licenses, approvals, certificates, permits, franchises, notices, registrations and other governmental authorizations necessary to the ownership of its respective properties or to the conduct of its respective business, antitrust laws or Environmental Laws and laws with respect to social security and pension funds obligations) and all material Contractual Obligations, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect.

7.04 Payment of Obligations. Each of the Credit Parties will pay and discharge, and cause each of its Subsidiaries to pay and discharge, before the same shall become delinquent, (a) all taxes, assessments and governmental charges or levies assessed, charged or imposed upon it or upon its property and (b) all lawful claims that, if unpaid, might by law become a Lien upon its property, except where the failure to make such payments or effect such discharges could not reasonably be expected to have a Material Adverse Effect; provided, however, that no Credit Party nor any of its Subsidiaries shall be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim that is being contested in good faith and by proper proceedings and as to which appropriate reserves are being maintained, unless and until any Lien resulting therefrom attaches to its property and becomes enforceable against its other creditors.

7.05 Maintenance of Insurance. Each of the Credit Parties will maintain, and cause each of its Subsidiaries to maintain, insurance with reputable insurance companies or associations in such amounts and covering such risks as is usually carried by companies of established reputation engaged in similar businesses and owning similar properties in the same general areas in which the Credit Parties or such Subsidiary operates.

7.06 Conduct of Business and Preservation of Corporate Existence. Each of the Credit Parties will continue to engage in business of the same general type as now

conducted by such Credit Party and will preserve and maintain, and cause each of its Material Subsidiaries to preserve and maintain, its corporate existence, rights (charter and statutory), licenses, consents, permits, notices or approvals and franchises deemed material to its business; provided that none of the Credit Parties nor any of their Subsidiaries shall be required to maintain its corporate existence in connection with a merger or consolidation in compliance with Section 8.03; and provided, further, that none of the Credit Parties nor any of their Subsidiaries shall be required to preserve any right or franchise if such Credit Party or any such Subsidiary shall in its good faith judgment, determine that the preservation thereof is no longer in the best interests of such Credit Party or such Subsidiary, as the case may be, and that the loss thereof could not reasonably be expected to have a Material Adverse Effect.

7.07 Books and Records. Each of the Credit Parties will keep, and cause their Subsidiaries to keep, proper books of record and account, in which full and correct entries shall be made of all financial transactions and the assets and business of the Credit Parties and each such Subsidiary in accordance with Applicable GAAP consistently applied.

7.08 Maintenance of Properties, Etc.. Each of the Credit Parties will:

(a) maintain and preserve, and cause each of its Subsidiaries to maintain and preserve, all of its properties that are used or useful in the conduct of its business in good working order and condition, ordinary wear and tear excepted, and

(b) maintain, preserve and protect all intellectual property and all necessary governmental and third party approvals, franchises, licenses and permits, material to the business of the Credit Parties and their Subsidiaries, taken as a whole, provided neither paragraph (a) nor this paragraph (b) shall prevent the Credit Parties or their Subsidiaries from discontinuing the operation and maintenance of any of their properties or allowing to lapse certain approvals, licenses or permits which discontinuance is desirable in the conduct of its business and which discontinuance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

7.09 Pari Passu Ranking. Each Credit Party will ensure at all times that its respective Obligations with respect to the Loans under the Transaction Documents constitute unconditional general obligations of such Credit Party ranking in priority of payment at least pari passu with all other senior unsecured, unsubordinated Debt of such Credit Party.

7.10 Transactions with Affiliates. Each of the Credit Parties will conduct, and cause each of its Subsidiaries to conduct, all transactions otherwise permitted under this Agreement with any of its Affiliates on terms that are commercially reasonable and no less favorable to such Credit Party or such Subsidiary than it would obtain in a comparable arm's-length transaction with a Person not an Affiliate.

7.11 Maintenance of Governmental Approvals. The Credit Parties will maintain in full force and effect at all times all approvals of and filings with any

Governmental Authority or third party required under applicable law for the conduct of its business (including, without limitation, antitrust laws or Environmental Laws) and the performance of the Credit Parties' obligations hereunder and under the other Transaction Documents by the Borrower and/or the Guarantors, as applicable, and for the validity or enforceability hereof and thereof, except where failure to maintain any such approvals or filings could not reasonably be expected to have a Material Adverse Effect.

7.12 Inspection of Property. At any reasonable time during normal business hours and from time to time with at least ten (10) Business Days prior notice, or at any time if a Default or Event of Default shall have occurred and be continuing, permit the Administrative Agent or any of the Lenders or any agents or representatives thereof to examine and make abstracts from the records and books of account of, and visit the properties of any Credit Party, and to discuss the affairs, finances and accounts of such Credit Party with any of its officers or directors and with its independent certified public accountants. All expenses associated with such inspection shall be borne by the inspecting Lenders; provided that if a Default or an Event of Default shall have occurred and be continuing, any expenses associated with such inspection shall be borne jointly and severally by Credit Parties.

ARTICLE VIII
NEGATIVE COVENANTS APPLICABLE TO THE LOANS

Each Credit Party covenants and agrees for the benefit of the Lenders that until all Obligations owed to the Lenders are paid in full, it will, unless waived in writing by the Required Lenders pursuant to the provisions set forth in Section 13.02:

8.01 Financial Conditions.

(a) The Parent shall not permit the Consolidated Net Debt / EBITDA Ratio at any time to exceed:

(i) 4.50 to 1.0 during the Reference Period ending on each of December 31, 2008 and March 31, 2009;

(ii) 4.75 to 1.0 during the Reference Period ending on June 30, 2009;

(iii) 4.50 to 1.0 during the Reference Period ending on each of September 30, 2009 and December 31, 2009;

(iv) 4.25 to 1.0 during the Reference Period ending on each of March 31, 2010 and June 30, 2010;

(v) 4.00 to 1.0 during the Reference Period ending on September 30, 2010; and

(vi) 3.75 to 1.0 during the Reference Period ending on each of December 31, 2010, March 31, 2011 and the Maturity Date.

(b) The Parent shall not permit the Consolidated Fixed Charge Coverage Ratio at the end of each fiscal quarter to be less than 2.5 to 1.

(c) Concurrently with the delivery by the Borrower of any financial statements pursuant to Section 7.01, any Credit Party shall deliver to the Administrative Agent (with a copy to each Lender) a certificate from a Responsible Officer of the Parent containing all information and calculations necessary for determining compliance with Sections 8.01 (a), as applicable, and (b) above.

(d) For the purpose of calculating the Consolidated Net Debt / EBITDA Ratio in Section 8.01(a) above only, "Consolidated Net Debt" shall not include any Debt which, notwithstanding falling within the definition of Debt, is not required to be recorded as a liability by the Parent on its consolidated balance sheet in accordance with Mexican FRS.

8.02 Liens. The Parent shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of the Parent or any Subsidiary, whether now owned or held or hereafter acquired, other than the following Liens ("Permitted Liens"):

(a) Liens for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which adequate reserves or other appropriate provision, if any, as shall be required by Applicable GAAP shall have been made;

(b) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Applicable GAAP shall have been made;

(c) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security;

(d) any attachment or judgment Lien, unless the judgment it secures shall not, within sixty (60) days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within sixty (60) days after the expiration of any such stay;

(e) Liens that are described in Schedule 8.02(e) attached hereto;

(f) any Lien on property acquired by the Parent after the date hereof that was existing on the date of acquisition of such property; provided that such Lien was not incurred in anticipation of such acquisition, and any Lien created to secure all or any part of the purchase price, or to secure Debt incurred or assumed to pay all or any part of the purchase price, of property acquired by the Parent or any of its Subsidiaries after the date hereof; provided, further, that (A) any such Lien permitted pursuant to this clause (f) shall be confined solely to the item or items of property so acquired (including, in the case of any Acquisition of a corporation through the acquisition of 51% or more of the voting stock of such corporation, the stock and assets of any Acquired Subsidiary or Acquiring Subsidiary) and, if required by the terms of the instrument originally creating such Lien, other property which is an improvement to, or is acquired for specific use with, such acquired property; and (B) if applicable, any such Lien shall be created within nine (9) months after, in the case of property, its acquisition, or, in the case of improvements, their completion;

(g) any Lien renewing, extending or refunding any Lien permitted by clause (f) above; provided that the principal amount of Debt secured by such Lien immediately prior thereto is not increased or the maturity thereof reduced and such Lien is not extended to other property;

(h) any Liens created on shares of Capital Stock of the Parent or any of its Subsidiaries solely as a result of the deposit or transfer of such shares into a trust or a special purpose vehicle (including any entity with legal personality) of which such shares constitute the sole assets; provided that (A) any shares of Subsidiary stock held in such trust, corporation or entity could be sold by the Parent; and (B) proceeds from the deposit or transfer of such shares into such trust, corporation or entity and from any transfer of or distributions in respect of the Parent's or any Subsidiary's interest in such trust, corporation or entity are applied as provided under Section 8.04; and provided, further, that such Liens may not secure Debt of the Parent or any Subsidiary (unless permitted under another clause of this Section 8.02);

(i) any Liens on securities securing repurchase obligations in respect of such securities;

(j) any Liens in respect of any Qualified Receivables Transaction;

(k) in addition to the Liens permitted by the foregoing clauses (a) through (j), Liens securing Debt of the Parent and its Subsidiaries (taken as a whole) not in excess of 5% of the Adjusted Consolidated Net Tangible Assets of the Parent and its Subsidiaries; and

(l) any Liens on "margin stock" purchased with the proceeds of the Loans within the meaning of Regulation U, if and to the extent the value of all "margin stock" of the Parent and its Subsidiaries exceeds 25% of the value of the total assets of the Parent and its Subsidiaries;

unless, in each case, the Parent has made or caused to be made effective provision whereby the Obligations hereunder are secured equally and ratably with, or prior to, the Debt secured by such Liens (other than Permitted Liens) for so long as such Debt is so secured.

8.03 Consolidations and Mergers. None of the Credit Parties shall, in one or more related transactions, (x) consolidate with or merge into any other Person or permit any other Person to merge into it or (y) directly or indirectly, transfer, convey, sell, lease or otherwise dispose of all or substantially all of its properties or assets to any Person, unless, with respect to any transaction described in clause (x) or (y), immediately after giving effect to such transaction:

(a) the Person formed by any such consolidation or merger, if it is not the Borrower or such Guarantor, or the Person that acquires by transfer, conveyance, sale, lease or other disposition all or substantially all of the properties and assets of the Borrower or such Guarantor (any such Person, a "Successor") (i) shall be a corporation organized and validly existing under the laws of its place of incorporation, which in the case of a Successor to the Borrower shall be Mexico, the United States, Canada, France, Belgium, Germany, Italy, Luxembourg, The Netherlands, Portugal, Spain, Switzerland or the United Kingdom, or any political subdivision thereof, (ii) in the case of a Successor to the Borrower, shall expressly assume, pursuant to a written agreement in form and substance satisfactory to the Required Lenders, the Obligations of the Borrower pursuant to this Agreement and the performance of every covenant on part of the Credit Parties to be performed and observed and (iii) in the case of a Successor to any Guarantor, shall expressly assume, pursuant to a written agreement in form and substance satisfactory to the Required Lenders, the performance of every covenant of this Agreement on part of such Guarantor to be performed and observed;

(b) in the case of any such transaction involving the Borrower or any Guarantor, the Borrower or such Guarantor, or the Successor of any thereof, as the case may be, shall expressly agree to indemnify each Lender and the Administrative Agent against any tax, levy, assessment or governmental charge payable by withholding or deduction thereafter imposed on such Lender and/or the Administrative Agent solely as a consequence of such transaction with respect to payments under the Transaction Documents;

(c) immediately after giving effect to such transaction, including for purposes of this clause (c) the substitution of any Successor to the Borrower for the Borrower or the substitution of any Successor to a Guarantor for such Guarantor and treating any Debt or Lien incurred by the Borrower or any Successor to the Borrower, or by a Guarantor of the Borrower or any Successor to such Guarantor, as a result of such transactions as having been incurred at the time of such transaction (and incurred for the purposes of Section 8.07), no Default or Event of Default shall have occurred and be continuing; and

(d) the Borrower shall have delivered to the Administrative Agent an officer's certificate and an opinion of counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a written agreement is required in connection with such transaction, such written agreement comply with the relevant provisions of this Article VIII and that all conditions precedent provided for in this Agreement relating to such transaction have been complied with.

8.04 Sales of Assets, Etc. The Parent will not, and will not permit any of its Material Subsidiaries to, sell, lease or otherwise dispose of any of its assets (including the Capital Stock of any Subsidiary), other than (a) inventory, trade receivables and assets surplus to the needs of the business of the Parent or any Subsidiary sold in the ordinary course of business, (b) assets not used, usable or held for use in connection with cement operations and related operations, and (c) any "margin stock" within the meaning of Regulation U acquired by the Parent through a Tender Offer, unless the proceeds of the sale of such assets are retained by the Parent or such Subsidiary, as the case may be, and, as promptly as practicable after such sale (but in any event within one hundred and eighty (180) days of such sale), the proceeds are applied to (i) expenditures for property, plant and equipment usable in the cement industry or related industries; (ii) the repayment of senior Debt of the Parent or any of its Subsidiaries, whether secured or unsecured; or (iii) investments in companies engaged in the cement industry or related industries; provided, however, that the net proceeds from Qualified Receivables Transactions to the extent exceeding, in the aggregate, the aggregate U.S.$ amount set forth in Schedule 8.04 attached hereto shall be applied to the repayment of senior Debt of the Parent or any of its Subsidiaries, whether secured or unsecured; and provided, that, nothing in this Section 8.04 shall prevent any sale, lease or other disposal of assets from any Subsidiary to another Subsidiary.

8.05 Change in Nature of Business. Neither the Parent nor the Borrower shall make, or permit any of its Material Subsidiaries to make, any material change in the nature of its business as carried on at the date hereof.

8.06 Margin Regulations. None of the Credit Parties shall use any part of the proceeds of the Loans for any purpose which would result in any violation (whether by any of the Credit Parties, the Administrative Agent or the Lenders) of Regulation T, U or X of the Federal Reserve Board or to extend credit to others for any such purpose. None of the Credit Parties shall engage in, or maintain as one of its important activities, the business of extending credit for the purpose of purchasing or carrying any margin stock (as defined in such regulations).

8.07 Limitation on Indebtedness. The Parent shall not, and shall not permit any of its Subsidiaries to, Incur any Debt (including Acquired Debt), provided that, the Parent or any Subsidiary may Incur Debt if on the date of such Incurrence and after giving effect thereto on a pro forma basis (as if such Debt had been Incurred on the first day of the relevant Reference Period): (a) the Consolidated Net Debt / EBITDA Ratio is less than 3.5 to 1.0 and (b) no Event of Default has occurred and is continuing or would result from the Incurrence of such Debt. Notwithstanding the foregoing, the Parent and its Subsidiaries may Incur Permitted Debt.

(a) Upon each Incurrence of Debt, the Parent or Subsidiary, as the case may be, may designate (and later re-designate) in its sole discretion pursuant to which category of Permitted Debt any Debt is being Incurred and may subdivide an amount of Debt and designate (and later redesignate) more than one such category pursuant to which such amount of Debt is being Incurred and such Permitted Debt shall not be deemed to have been Incurred or outstanding under any other category of Permitted Debt. For the avoidance of doubt, the inability of the Parent or its Subsidiary to Incur Debt under one category shall not limit the ability of the Parent or its Subsidiary to Incur Debt under another category.

(b) Accrual of interest shall not be deemed to be an Incurrence of Debt for purposes of this Section 8.07. Notwithstanding any other provision of this covenant, the maximum amount of Debt that the Parent and its Subsidiaries may Incur pursuant to this covenant shall not be deemed to be exceeded, with respect to any outstanding Debt, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Debt Incurred to refinance other Debt, if Incurred in a different currency from the Debt being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Debt is denominated that is in effect on the date of such refinancing.

(c) For purposes of determining compliance with any U.S. Dollar-denominated restriction on the Incurrence of Debt, the U.S. Dollar equivalent principal amount of Debt denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Debt was Incurred.

ARTICLE IX
OBLIGATIONS OF GUARANTORS

9.01 The Guaranty. Each of the Guarantors jointly and severally hereby unconditionally and irrevocably guarantees (as a primary obligor and not merely as surety) payment in full as provided herein of all Obligations payable by the Borrower to each Lender, the Administrative Agent, the Structuring Agent and the Joint Lead Arrangers under this Agreement and the other Transaction Documents, as and when such amounts become payable (whether at stated maturity, by acceleration or otherwise).

9.02 Nature of Liability. The obligations of the Guarantors hereunder are guarantees of payment and shall remain in full force and effect until all Obligations of the Borrower have been validly, finally and irrevocably paid in full, and shall not be affected in any way by the absence of any action to obtain such amounts from the Borrower or by any variation, extension, waiver, compromise or release of any or all Obligations from time to time therefor. Each Guarantor waives all requirements as to promptness, diligence, presentment, demand for payment, protest and notice of any kind with respect to this Agreement and the other Transaction Documents.

9.03 Unconditional Obligations. Notwithstanding any contrary principles under the laws of any jurisdiction other than the State of New York, the obligations of each of the Guarantors hereunder shall be unconditional, irrevocable and absolute and, without limiting the generality of the foregoing, shall not be impaired, terminated, released, discharged or otherwise affected by the following:

(a) the existence of any claim, set-off or other right which either of the Guarantors may have at any time against the Borrower, the Administrative Agent, any Lenders or any other Person, whether in connection with this transaction or with any unrelated transaction;

(b) any invalidity or unenforceability of this Agreement or any other Transaction Document relating to or against the Borrower or either of the Guarantors for any reason;

(c) any provision of applicable law or regulation purporting to prohibit the payment by the Borrower of any amount payable by the Borrower under this Agreement or any of the other Transaction Documents or the payment, observance, fulfillment or performance of any other Obligations;

(d) any change in the name, purposes, business, Capital Stock (including the ownership thereof) or constitution of the Borrower;

(e) any amendment, waiver or modification of any Transaction Document in accordance with the terms hereof and thereof; or

(f) any other act or omission to act or delay of any kind by the Borrower, the Administrative Agent, the Lenders or any other Person or any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge of or defense to either of the Guarantors' obligations hereunder.

9.04 Independent Obligation. The obligations of each of the Guarantors hereunder are independent of the Borrower's obligations under the Transaction Documents and of any guaranty or security that may be obtained for the Obligations. The Administrative Agent and the Lenders may neglect or forbear to enforce payment hereunder, under any Transaction Document or under any guaranty or security, without in any way affecting or impairing the liability of each Guarantor hereunder. The Administrative Agent or the Lenders shall not be obligated to exhaust recourse or take any other action against the Borrower or under any agreement to purchase or security which the Administrative Agent or the Lenders may hold before being entitled to payment from the Guarantors of the obligations hereunder or proceed against or have resort to any balance of any deposit account or credit on the books of the Administrative Agent or the Lenders in favor of the Borrower or each of the Guarantors. Without limiting the generality of the foregoing, the Administrative Agent or the Lenders shall have the right to bring suit directly against either of the Guarantors, either prior or subsequent to or concurrently with any lawsuit against, or without bringing suit against, the Borrower and/or the other Guarantor.

9.05 Waiver of Notices. Each of the Guarantors hereby waives notice of acceptance of this Article IX and notice of any liability to which it may apply, and waives presentment, demand for payment, protest, notice of dishonor or nonpayment of any such liability, suit or the taking of other action by the Administrative Agent or the Lenders against, and any other notice, to the Guarantors.

9.06 Waiver of Defenses. To the extent permitted by New York law and notwithstanding any contrary principles under the laws of any other jurisdiction, each of the Guarantors hereby waives any and all defenses to which it may be entitled, whether at common law, in equity or by statute which limits the liability of, or exonerates, guarantors or which may conflict with the terms of this Article IX, including failure of consideration, breach of warranty, statute of frauds, merger or consolidation of the Borrower, prior notice to the Borrower, that the Borrower's assets are used to repay the Loans first, that the liability of the Guarantors be split, statute of limitations, accord and satisfaction and usury. Without limiting the generality of the foregoing, each of the Guarantors consents that, without notice to such Guarantor and without the necessity for any additional endorsement or consent by such Guarantor, and without impairing or affecting in any way the liability of such Guarantor hereunder, the Administrative Agent and the Lenders may at any time and from time to time, upon or without any terms or conditions and in whole or in part, (a) change the manner, place or terms of payment of, and/or change or extend the time or payment of, renew or alter, any of the Obligations, any security therefor, or any liability incurred directly or indirectly in respect thereof, and this Article IX shall apply to the Obligations as so changed, extended, renewed or altered; (b) exercise or refrain from exercising any right against the Borrower or others (including the Guarantors) or otherwise act or refrain from acting; (c) settle or compromise any of the Obligations, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any such liability (whether due or not) of the Borrower to creditors of the Borrower other than the Administrative Agent and the Lenders and the Guarantors; (d) apply any sums by whomsoever paid or howsoever realized, other than payments of the Guarantors of the Obligations, to any liability or liabilities of the Borrower under the Transaction Documents or any instruments or agreements referred to herein or therein, to the Administrative Agent and the Lenders regardless of which of such liability or liabilities of the Borrower under the Transaction Documents or any instruments or agreements referred to herein or therein remain unpaid; (e) consent to or waive any breach of, or any act, omission or default under the Obligations or any of the instruments or agreements referred to in this Agreement and the other Transaction Documents, or otherwise amend, modify or supplement the Obligations or any of such instruments or agreements, including the Transaction Documents; and/or (f) request or accept other support of the Obligations or take and hold any security for the payment of the Obligations or the obligations of the Guarantors under this Article IX, or allow the release, impairment, surrender, exchange, substitution, compromise, settlement, rescission or subordination thereof.

9.07 Bankruptcy and Related Matters.

(a) So long as any of the Obligations remain outstanding, each Credit Party shall not, without the prior written consent of the Administrative Agent (acting with the consent of the Required Lenders), commence or join with any other Person in commencing any bankruptcy, liquidation, reorganization, *concurso mercantil* or insolvency proceedings of, or against, the Borrower.

(b) If acceleration of the time for payment of any amount payable by the Borrower under this Agreement or the Maturity "B" Notes is stayed upon the insolvency, bankruptcy, reorganization, *concurso mercantil* or any similar event of the Borrower or otherwise, all such amounts otherwise subject to acceleration under the terms of this Agreement shall nonetheless be payable by the Guarantors hereunder forthwith on demand by the Administrative Agent made at the request of the Lenders.

(c) The obligations of each of the Guarantors under this Article IX shall not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding or action, voluntary or involuntary, involving the bankruptcy, insolvency, *concurso mercantil*, receivership, reorganization, marshalling of assets, assignment for the benefit of creditors, readjustment, liquidation or arrangement of the Borrower or similar proceedings or actions or by any defense which the Borrower may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding or action. Without limiting the generality of the foregoing, the Guarantors' liability shall extend to all amounts and obligations that constitute the Obligations and would be owed by the Borrower but for the fact that they are unenforceable or not allowable due to the existence of any such proceeding or action.

(d) Each of the Guarantors acknowledges and agrees that any interest on any portion of the Obligations which accrues after the commencement of any proceeding or action referred to above in Section 9.07(c) (or, if interest on any portion of the Obligations ceases to accrue by operation of law by reason of the commencement of said proceeding or action, such interest as would have accrued on such portion of the Obligations if said proceedings or actions had not been commenced) shall be included in the Obligations, it being the intention of the Guarantors, the Administrative Agent, and the Lenders that the Obligations which are to be guaranteed by the Guarantors pursuant to this Article IX shall be determined without regard to any rule of law or order which may relieve the Borrower of any portion of such Obligations. The Guarantors will take no action to prevent any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or similar person from paying the Administrative Agent, or allowing the claim of the Administrative Agent, for the benefit of the Administrative Agent, and the Lenders, in respect of any such interest accruing after the date of which such proceeding is commenced, except to the extent any such interest shall already have been paid by the Guarantors.

(e) Notwithstanding anything to the contrary contained herein, if all or any portion of the Obligations are paid by or on behalf of the Borrower, the obligations of the Guarantors hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered, directly or indirectly, from the Administrative Agent and/or the Lenders as a preference, preferential transfer, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Obligations for all purposes under this Article IX, to the extent permitted by applicable law.

9.08 No Subrogation. Notwithstanding any payment or payments made by any of the Guarantors hereunder or any set-off or application of funds of any of the Guarantors by the Administrative Agent or any Lender, no Guarantor shall be entitled to be subrogated to any of the rights of the Administrative Agent or any Lender against the Borrower or any other Guarantor or any collateral security or guarantee or right of offset held by the Administrative Agent or any Lender for the payment of the Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from the Borrower or any other Guarantor in respect of payments made by such Guarantor hereunder, until all amounts owing to the Administrative Agent and the Lenders by the Borrower on account of the Obligations shall have been indefeasibly paid in full in cash. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all of the Obligations shall not have been indefeasibly paid in full in cash, such amount shall be held by such Guarantor in trust for the Administrative Agent and the Lenders, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be turned over to the Administrative Agent in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Administrative Agent, if required), to be applied against the Obligations, whether matured or unmatured, in such order as the Administrative Agent may determine.

9.09 Right of Contribution. Subject to Section 9.08, each Guarantor hereby agrees that to the extent that a Guarantor shall have paid more than its proportionate share of any payment made hereunder, such Guarantor shall be entitled to seek and receive contribution from and against any other Guarantor hereunder who has not paid its proportionate share of such payment. The provisions of this Section 9.09 shall in no respect limit the obligations and liabilities of any Guarantor to the Administrative Agent, the Structuring Agent, the Joint Lead Arrangers and the Lenders, and each Guarantor shall remain liable to the Administrative Agent, the Structuring Agent, the Joint Lead Arrangers and the Lenders for the full amount guaranteed by such Guarantor hereunder.

9.10 General Limitation on Guaranty. In any action or proceeding involving any applicable corporate law, or any applicable bankruptcy, insolvency, reorganization, *concurso mercantil* or other law affecting the rights of creditors generally, if the obligations of any Guarantor under this Article IX would otherwise, taking into account

the provisions of Section 9.09, be held or determined to be void, invalid or unenforceable, or subordinated to the claims of any other creditors, on account of the amount of its liability under Section 9.01, then, notwithstanding any other provision hereof to the contrary, the amount of such liability shall, without any further action by such Guarantor, any Lender, the Administrative Agent or any other Person, be automatically limited and reduced to the highest amount that is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding.

9.11 Covenants of the Guarantors. Each Guarantor hereby covenants and agrees that, so long as any Obligations with respect to the Loans under this Agreement and any other Transaction Document remain unpaid, it shall comply with the covenants contained or incorporated by reference in this Agreement applicable to the Loans to the extent applicable to it.

ARTICLE X
EVENTS OF DEFAULT

10.01 Events of Default Applicable to the Loans. The following specified events shall constitute "Events of Default" for the purposes of this Agreement:

(a) Payment Defaults. The Borrower shall (i) fail to pay any principal of the Loans when due in accordance with the terms hereof or (ii) fail to pay any interest on the Loans, any fee or any other amount payable under this Agreement or any Maturity "B" Note within three (3) Business Days after the same becomes due and payable; or

(b) Representation and Warranties. Any representation or warranty made by any Credit Party in any Transaction Document or which is contained in any certificate, document or financial or other statement furnished at any time under or in connection with this Agreement or any other Transaction Document, as applicable, shall prove to have been incorrect in any material respect on or as of the date made if such failure shall remain unremedied for thirty (30) days after the earlier of the date on which (i) a Responsible Officer of such Credit Party becomes aware of such incorrectness or (ii) written notice thereof shall have been given to the Borrower by the Administrative Agent; or

(c) Specific Defaults. A Credit Party shall fail to perform or observe any term, covenant or agreement contained in Section 7.01, 7.02(a), 7.06 (with respect to the Borrower's and each Guarantor's existence only) or 7.09 or Article VIII; or

(d) Other Defaults. A Credit Party shall fail to perform or observe any term, covenant or agreement applicable to the Loans contained in this Agreement or the Maturity "B" Notes, any certificates, waivers, or any other agreement delivered pursuant to this Agreement (other than as provided in paragraphs (a) and (c) above) and such failure shall continue unremedied for a period of thirty (30) days after the earlier of the date on which (i) the Responsible Officer of the Borrower becomes aware of such failure or (ii) written notice thereof shall have been given to the Borrower by the Administrative Agent at the request of any Lender; or

(e) Defaults under Other Agreements. The occurrence of a default or event of default under any indenture, agreement or instrument relating to any Material Debt of the Parent or any of its Subsidiaries, and such default or event of default results in the acceleration of the maturity of any principal amount of such Material Debt prior to the date on which it would otherwise become due and payable; or any principal amount of Material Debt of the Borrower or any of its Subsidiaries shall not be paid upon the scheduled maturity thereof (after giving effect to any applicable grace period); or

(f) Voluntary Bankruptcy. Any Credit Party or any Material Subsidiary shall commence a voluntary case or other proceeding seeking liquidation, reorganization, *concurso mercantil* or other relief with respect to itself or its debts under any bankruptcy, insolvency, reorganization or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing or the equivalent thereof under applicable law; or

(g) Involuntary Bankruptcy. An involuntary case or other proceeding shall be commenced against any Credit Party or any Material Subsidiary seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency, *concurso mercantil* or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty (60) consecutive days; or an order for relief shall be entered against the Parent or any Material Subsidiaries under any bankruptcy, insolvency, *suspensión de pagos* or other similar law as now or hereafter in effect; or

(h) Monetary Judgment. A final judgment or judgments or order or orders not subject to further appeal for the payment of money in an aggregate amount in excess of U.S.$50,000,000 shall be rendered against the Parent and/or any of its Subsidiaries that are neither discharged nor bonded in full within thirty (30) days thereafter; or

(i) Pari Passu. The Obligations of the Credit Parties under this Agreement shall fail to rank at least *pari passu* with all other senior unsecured Indebtedness of the Borrower or such Guarantor, as the case may be; or

(j) Validity of Agreement. The Borrower shall contest the validity or enforceability of any Transaction Document or shall deny generally the liability of the Borrower under any Transaction Documents or either Guarantor shall contest the validity

of or the enforceability of their guarantee hereunder or any obligation of either Guarantor under Article IX hereof shall not be (or is claimed by either Guarantor not to be) in full force and effect; or

(k) Governmental Authority. Any governmental or other consent, license, approval, permit or authorization which is now or may in the future be necessary or appropriate under any applicable Requirement of Law for the execution, delivery, or performance by the Borrower or either Guarantor of any Transaction Document to which it is a party or to make such Transaction Document legal, valid, enforceable and admissible in evidence shall not be obtained or shall be withdrawn, revoked or modified or shall cease to be in full force and effect or shall be modified in any manner that would have an adverse effect on the rights or remedies of the Administrative Agent or the Lenders; or

(l) Expropriation, Etc. Any Governmental Authority shall condemn, nationalize, seize or otherwise expropriate all or any substantial portion of the property of, or Capital Stock issued or owned by, the Borrower or either Guarantor or take any action that would prevent the Borrower or either Guarantor from performing its obligations under this Agreement or the Maturity "B" Notes, the Conversion Notice, any certificates, waivers, or any other agreements delivered pursuant to this Agreement; or

(m) Moratorium; Availability of Foreign Exchange. A moratorium shall be agreed or declared in respect of any Debt of the Borrower or either Guarantor or any restriction or requirement not in effect on the date hereof shall be imposed, whether by legislative enactment, decree, regulation, order or otherwise, which limits the availability or the transfer of foreign exchange by the Borrower or either Guarantor for the purpose of performing any material obligation under this Agreement or the Maturity "B" Notes, any certificates, waivers, or any other agreements delivered pursuant to this Agreement; or

(n) Change of Ownership or Control. The beneficial ownership (within the meaning of Rule 13d-3 promulgated by the Securities Exchange Commission under the Securities Exchange Act of 1934, as amended) of 20% or more in voting power of the outstanding voting stock of the Borrower or either Guarantor is acquired by any Person after the Dutch Loan Closing Date; provided that the acquisition of beneficial ownership of Capital Stock of the Borrower or either Guarantor by Lorenzo H. Zambrano or any member of his immediate family shall not constitute an Event of Default.

10.02 Remedies.

(a) If an Event of Default under Sections 10.01(f) and (g) occurs with respect to any Credit Party, the outstanding principal amount of the Loans together with any accrued but unpaid interest thereon, in each case without notice or any other act by the Lenders, shall immediately become due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

(b) If any Event of Default has occurred and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders declare by written notice to the Borrower, the principal amount of the outstanding Loans to be forthwith due and payable, whereupon such principal amount, together with accrued interest thereon, including any fees due under this Agreement, shall become immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived.

10.03 Notice of Default. To the extent permitted by law, the Administrative Agent shall give notice to the Borrower of any event occurring under Section 10.01(a), (b), (c) or (d) promptly upon being requested to do so by any Lender and shall thereupon notify all the Lenders thereof.

10.04 Default Interest. In the event of default by the Borrower in the payment on the due date of any sum due under this Agreement, the Borrower shall pay interest on demand on such sum from the date of such default to the day of actual receipt of such sum by the Administrative Agent (as well after as before judgment) at the rate specified in Section 2.02(c). So long as the default continues, the default interest rate shall be recalculated on the same basis at intervals of such duration as the Administrative Agent may select, provided that the amount of unpaid interest at the above rate accruing during the preceding period (or such longer period as may be the shortest period permitted by applicable law for the capitalization of interest) shall be added to the amount in respect of which the Borrower is in default.

10.05 Remedies Independent. Any debt owing to a Lender under the Transaction Documents shall be a separate and independent debt. Except as otherwise stated in the Transaction Documents, (i) any right of a Lender under the Transaction Documents shall be a separate and independent right and (ii) a Lender may separately enforce its rights under the Transaction Documents.

ARTICLE XI
THE ADMINISTRATIVE AGENT

11.01 Appointment and Authorization.

(a) Each Lender hereby irrevocably designates and appoints ING Capital LLC as the Administrative Agent of such Lender under this Agreement, and each Lender hereby irrevocably authorizes the Administrative Agent to take such action on its behalf under the provisions of this Agreement and each other Transaction Document and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement or any other Transaction Document, together with such other powers as are reasonably incidental thereto.

(b) Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Transaction Document, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the

Administrative Agent have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Transaction Document or otherwise exist against the Administrative Agent.

11.02 Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement or any other Transaction Document by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects with reasonable care.

11.03 Liability of Administrative Agent. Neither the Administrative Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action taken or omitted to be taken by it or any such Person under or in connection with this Agreement or any other Transaction Document or the transactions contemplated hereby (except for its or such Person's own gross negligence or willful misconduct), or (b) responsible in any manner to any of the Lenders for any recital, statement, representation or warranty made by a Credit Party or any officer thereof contained in this Agreement or in any other Transaction Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Transaction Document, or for the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Transaction Document, or for any failure of a Credit Party or any other party to any Transaction Document to perform its obligations hereunder or thereunder. Except as otherwise expressly stated herein, the Administrative Agent shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Transaction Document, or to inspect the properties, books or records of a Credit Party.

11.04 Reliance by Administrative Agent.

(a) The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or teletype message, statement, order or other document or telephone conversation believed by it in good faith to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Transaction Document unless it shall first receive such advice or concurrence of the Required Lenders and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of failing to take, taking or continuing to take any such action. The Administrative Agent shall in all cases be

fully protected in acting, or in refraining from acting, under this Agreement or any other Transaction Document in accordance with a request or consent of the Required Lenders (or when expressly required hereby, all the Lenders) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders.

(b) For purposes of determining compliance with the conditions specified in Section 4.01, each Lender that has executed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter sent by the Administrative Agent to such Lender for consent, approval, acceptance or satisfaction on or before the Conversion Date.

11.05 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default (except for the Administrative Agent with respect to defaults in the payment of principal, interest and fees required to be paid to the Administrative Agent for the account of the Lenders) unless it shall have received written notice from a Lender or the Borrower referring to this Agreement and describing such Default or Event of Default and stating that such notice is a "Notice of Default". The Administrative Agent shall promptly notify the Lenders of its receipt of any such notice. The Administrative Agent shall take such action with respect to such Default or Event of Default as may be requested by the Required Lenders or the Lenders; provided, however, that unless and until the Administrative Agent has received any such request, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable or in the best interest of the Lenders.

11.06 Credit Decision. Each Lender expressly acknowledges that neither the Administrative Agent nor any of its Affiliates, officers, directors, employees, agents or attorneys-in-fact has made any representation or warranty to it, and that no act by the Administrative Agent hereafter taken, including any review of the affairs of a Credit Party, or any of its Affiliates, shall be deemed to constitute any representation or warranty by the Administrative Agent to any Lender. Each Lender acknowledges to the Administrative Agent that 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 appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower, the Guarantors and their Affiliates and all applicable Lender regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent 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 analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Transaction Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of any Credit

Party. Except for notices, reports and other documents expressly herein required to be furnished to the Lenders by the Administrative Agent, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any Credit Party which may come into the possession of the Administrative Agent or any of its Affiliates, officers, directors, employees, agents or attorneys-in-fact.

11.07 Indemnification. Whether or not the transactions contemplated hereby are consummated, the Lenders agree to indemnify upon demand the Administrative Agent and its Affiliates, directors, officers, advisors, agents and employees (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably based on such Lender's share of the aggregate amount of Loans outstanding hereunder, from and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever which may at any time (including at any time following the payment of the Obligations or the Maturity Date) be imposed on, incurred by or asserted against the Administrative Agent (or any of its Affiliates, directors, officers, agents and employees) in any way relating to or arising out of this Agreement or any other Transaction Document, or any documents contemplated by or referred to herein or the transactions contemplated hereby or any action taken or omitted by the Administrative Agent under or in connection with any of the foregoing; provided, however, that no Lender shall be liable for the payment of any portion of such claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements to the extent it results from the gross negligence or willful misconduct of the Administrative Agent or its Affiliates, directors, officers, agents or employees. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its ratable share (based on its share of the aggregate amount of Loans outstanding hereunder) of any reasonable and documented costs or out-of-pocket expenses (including legal fees) incurred by the Administrative Agent in connection with the preparation, execution, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Transaction Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrower.

11.08 Administrative Agent in its Individual Capacity. ING CAPITAL LLC may make loans to, issue letters of credit for the account of, accept deposits from and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with the Borrower, the Guarantors or any of their Affiliates as though ING CAPITAL LLC were not the Administrative Agent hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, ING CAPITAL LLC or its Affiliates may receive information regarding the Borrower, the Guarantors and their Affiliates (including information that may be subject to confidentiality obligations in favor of any Credit Party) and acknowledge that the

Administrative Agent shall be under no obligation to provide such information to them. With respect to the Obligations, ING CAPITAL LLC shall have the same rights and powers under this Agreement as any other Lender and may exercise the same as though it were not the Administrative Agent, and the terms "Lender" and "Lenders" include ING CAPITAL LLC in its individual capacity.

11.09 Successor Administrative Agent. The Administrative Agent may, and at the request of the Required Lenders shall, resign as the Administrative Agent upon thirty (30) days' notice to the Lenders and the Borrower. If the Administrative Agent resigns under this Agreement, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which appointment shall be subject to the approval of the Borrower, such approval not to be unreasonably withheld (unless a Default or Event of Default shall have occurred and be continuing, in which case such approval shall not be required). If no successor agent is appointed prior to the effective date of the resignation of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Lenders and the Borrower, a successor agent from among the Lenders. Upon the acceptance of its appointment as successor agent hereunder, such successor agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and the term "Administrative Agent" shall mean such successor agent effective upon its appointment, and the retiring Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act on the part of such retiring Administrative Agent. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Article XI and Sections 13.04 and 13.05 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement. If no successor agent has accepted the appointment as Administrative Agent by the date which is thirty (30) days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective and either the Borrower or the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor agent, which shall be a commercial bank organized or licensed under the laws of the United States or of any State thereof and having a combined capital and surplus of at least U.S.$400,000,000.

ARTICLE XII
THE STRUCTURING AGENT

12.01 The Structuring Agent. The Borrower hereby confirms the designation of HSBC SECURITIES (USA) INC., as the Structuring Agent for the Loans. The Structuring Agent assumes no responsibility or obligation hereunder for servicing, enforcement or collection of the Obligations, or any duties as agent for the Lenders. The title "Structuring Agent" implies no fiduciary responsibility on the part of the Structuring Agent to the Administrative Agent, or the Lenders, and the use of such title does not impose on the Structuring Agent any duties or obligations under this Agreement except as may be expressly set forth herein.

12.02 Liability of Structuring Agent. Neither the Structuring Agent nor any of its respective officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by them or any such Person under or in connection with this Agreement or any other Transaction Document (except for such Structuring Agent's own gross negligence or willful misconduct), or (b) responsible in any manner to any Lender for any recital, statement, representation or warranty made by the Borrower or any officer thereof, contained in this Agreement or in any other Transaction Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Structuring Agent under or in connection with, this Agreement or any other Transaction Document or for the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Transaction Document or for any failure of the Borrower or any other party to any other Transaction Document to perform its obligations hereunder or thereunder. Except as otherwise expressly stated herein, the Structuring Agent shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Transaction Document, or to inspect the properties, books or records of the Borrower.

12.03 Structuring Agent in its Individual Capacity. The Structuring Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with the Borrower or any of its Affiliates as though it were not the Structuring Agent hereunder.

12.04 Credit Decision. Each Lender expressly acknowledges that neither the Structuring Agent nor any of its respective Affiliates, officers, directors, employees, agents or attorneys-in-fact have made any representation or warranty to it, and that no act by the Structuring Agent hereafter taken, including any review of the affairs of a Credit Party, shall be deemed to constitute any representation or warranty by the Structuring Agent to any Lender. Each Lender acknowledges to the Structuring Agent that it has, independently and without reliance upon the Structuring Agent, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of a Credit Party and its Affiliates and made its own decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Structuring Agent, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Transaction Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of any Credit Party. The Structuring Agent shall not have any duty or responsibility to provide any Lender with any information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of the Borrower which may come into the possession of the Structuring Agent or any of its respective officers, directors, employees, agents, attorneys-in-fact or Affiliates.

ARTICLE XIII
MISCELLANEOUS

13.01 Notices.

(a) Except as otherwise expressly provided herein, all notices, requests, demands or other communications to or upon any party hereunder with respect to the Loans shall be in writing (including facsimile transmission) and shall be sent by an overnight courier service, transmitted by facsimile or delivered by hand to such party: (i) in the case of a Credit Party, the Structuring Agent, the Joint Lead Arrangers or the Administrative Agent, at its address or facsimile number set forth on Schedule 2.01(c) or at such other address or facsimile number as such party may designate by notice to the other parties hereto and (ii) in the case of any Lender, at its address or facsimile number set forth in Schedule 2.01(b) or at such other address or facsimile number as such Lender may designate by notice to the Borrower, the Structuring Agent, the Joint Lead Arrangers and the Administrative Agent.

(b) Unless otherwise expressly provided for herein, each notice, request, demand or other communication with respect to the Loans shall be effective (1) if sent by overnight courier service or delivered by hand, upon delivery, (2) if given by facsimile, when transmitted to the facsimile number specified pursuant to paragraph (a) above and confirmation of receipt of a legible copy thereof is received, or (3) if given by any other means, when delivered at the address specified pursuant to paragraph (a) above; provided, however, that notices to the Administrative Agent under Article II, III, IV or XI shall not be effective until received.

13.02 Amendments and Waivers. No amendment, waiver or modification of any provision of this Agreement, and no consent to any departure by any Credit Party from the terms of this Agreement shall be effective, in each case without the written consent of the Credit Parties, and acknowledged by the Administrative Agent (which shall be a purely ministerial action) and signed or consented to by the Required Lenders, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no amendment, waiver or consent shall:

(a) (i) except as specifically provided herein, increase or decrease the Loan of any Lender; or

(ii) extend the maturity of any of the Obligations, extend the time of payment of interest thereon, or extend the Maturity Date; or

(iii) forgive any Obligation, reduce the principal amount of the Obligations, reduce the rate of interest thereon, reduce the amount or change the method of calculation of any fee hereunder, or change the provisions of Sections 2.03 or 3.02;

in each case without the consent of the Borrower and each Lender directly affected thereby;

(b) (i) amend, modify or waive any provision of this Section 13.02; or

(ii) change the percentage specified in the definition of Required Lenders or the number of Lenders which shall be required for the Lenders or any of them to take any action under this Agreement; or

(iii) amend, modify or waive any provision of Section 11.06;

(iv) amend, modify or waive any provision of ARTICLE IV; or

(v) amend, modify, or waive any provisions of ARTICLE IX or release any Guarantor from its obligations hereunder;

in each case without the consent of the Borrower and all the Lenders;

(c) amend, modify or waive any provision of ARTICLE XI without the written consent of the Administrative Agent; and

(d) amend, modify or waive any provision of ARTICLE XII without the consent of the Structuring Agent.

13.03 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent or any Lender, any right, remedy, power or privilege hereunder or under any other Transaction Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

13.04 Payment of Expenses, Etc. The Borrower agrees to pay on demand:

(a) all reasonable and documented out-of-pocket costs and expenses (including reasonable legal fees and disbursements of special Mexican counsel, special Dutch counsel and New York counsel to the Administrative Agent and the allocated cost of in-house counsel to the Administrative Agent), syndication (including printing, distribution and bank meetings), travel, telephone and duplication expenses and other reasonable and documented costs and out-of- pocket expenses in connection with the arrangement, documentation, negotiation and closing of the Transaction Documents;

(b) all reasonable and documented out-of-pocket costs and expenses incurred by the Administrative Agent in connection with any amendment to, waiver of, or consent to any Transaction Document or the transactions contemplated hereby, including the reasonable fees and reasonable and documented out-of-pocket expenses of special Mexican, special Dutch counsel and New York counsel to the Administrative Agent; and

(c) all reasonable and documented out-of-pocket costs and expenses incurred by the Administrative Agent or any Lender in connection with the enforcement of and/or preservation of any rights under this Agreement or any other Transaction Document (whether through negotiations, legal proceedings or otherwise), including the reasonable fees and reasonable and documented out-of-pocket expenses of special Mexican, special Dutch counsel and New York counsel to the Administrative Agent and such Lender.

13.05 Indemnification. The Borrower agrees to indemnify and hold harmless the Structuring Agent, the Joint Lead Arrangers, the Administrative Agent and each Lender and each of their Affiliates and their officers, directors, employees, agents and advisors (each, an " Indemnified Party") from and against any and all claims, damages, losses, liabilities and expenses (including reasonable fees and expenses of counsel, the allocated cost of in-house counsel and settlement costs), but excluding taxes that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or by reason of (including in connection with any investigation, litigation or proceeding or preparation of a defense in connection therewith) (i) the Transaction Documents, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Loans or (ii) or any Environmental Action relating in any way to the Borrower or any of its Subsidiaries, except to the extent such claim, damage, loss, liability or expense is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's bad faith, gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 13.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by the Borrower, its directors, shareholders or creditors or an Indemnified Party or any other Person or any Indemnified Party is otherwise a party thereto and whether or not the transactions contemplated hereby are consummated. Each Credit Party also agrees not to assert any claim against the Structuring Agent, the Joint Lead Arrangers, the Administrative Agent, any Lender, any of their Affiliates, or any of their respective directors, officers, employees, attorneys and agents, on any theory of liability, for special, indirect, consequential or punitive damages arising out of or otherwise relating to the Transaction Documents, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Transaction Documents. Neither the Structuring Agent, the Joint Lead Arrangers, the Administrative Agent, nor any Lender shall be deemed to have any fiduciary relationship with any Credit Party.

13.06 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon the Borrower, the Guarantors, their successors and assigns and shall inure to the benefit of the Structuring Agent, the Joint Lead Arrangers, the Administrative Agent and the Lenders and their respective successors and assigns, except that the Credit Parties may not assign or otherwise transfer any of their rights or obligations under this Agreement without the prior written consent of all Lenders other than pursuant to the terms of this Agreement.

(b) Any Lender (such Lender, an "Assignor") may at any time, in its sole discretion, and any Lender, if demanded by the Borrower pursuant to Section 3.08 upon at least five (5) Business Days' notice to such Lender and Administrative Agent, (i) assign or pledge as security all or part of such Lender's rights under this Agreement but not its obligations, to any Federal Reserve Board or entity that is a lender to such Lender without the prior consent (written or otherwise) of the Borrower, the Administrative Agent, the Parent or any other third party, or (ii) assign all or part of such Lender's rights or obligations under this Agreement and any Maturity "B" Notes to any of its Affiliates or related funds or any other Lender or any Affiliate of a Lender , in each case without the prior consent (written or otherwise) of the Borrower, the Administrative Agent, the Parent or any other third party, and/or (iii) assign all or part of such Lender's rights or obligations under this Agreement and any Maturity "B" Notes to one or more banks or other financial institutions or any other person that is not a Competitor with the prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, of the Borrower, the Parent and the Administrative Agent (each such person, an "Assignee"); provided however that, in the case of an assignment of only part of such rights and obligations under clause (iii), such assignment shall be in integral multiples of U.S.$5,000,000; provided further that in the case of an assignment of only part of such rights and obligations under clause (iii), the Borrower shall be deemed to have consented to an assignment if it fails to respond to a written request for consent within ten (10) Business Days of such request; provided, further, that if the value of the rights and obligations assigned under clause (i) or clause (ii) is less than euro 50,000 (or its equivalent in another currency or currencies) the assignee or transferee otherwise qualifies as a Professional Market Party. Upon the occurrence and continuation of an Event of Default, each Lender shall have the right, in its sole discretion, to assign all or part of its rights or obligations under this Agreement and any Maturity "B" Notes to any Person that is not a Competitor, without the prior consent (written or otherwise) of the Borrower, the Administrative Agent, the Parent or any other third party; provided however that if the value of the rights and obligations assigned is less than euro 50,000 (or its equivalent in another currency or currencies) the assignee or transferee otherwise qualifies as a Professional Market Party. Upon execution and delivery of an Assignment and Assumption Agreement pursuant to which the Assignee shall assume the Assignor's rights and obligations under this Agreement and any Maturity "B" Notes and payment by the Assignee to the Assignor of an amount equal to the purchase price agreed between such Assignor and such Assignee, such Assignee shall be a Lender party to this Agreement and shall have all the rights and obligations of a Lender with a commitment as set forth in such instrument of assumption (in addition to any commitment previously held by it), and the Assignor shall be released from its obligations hereunder to a corresponding extent (except to the extent the same arose prior to the assignment); and, in the case of an Assignment and Assumption Agreement covering all of the transferor 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 Section 3.01 (to the extent

any claim thereunder relates to an event arising or such Lender's status or activity as Lender prior to such assignment), and no further consent or action by any party shall be required. Upon the consummation of any assignment pursuant to this paragraph (b), the Assignor, the Administrative Agent and the Borrower shall make appropriate arrangements so that a new Maturity "B" Note is issued to the Assignee at the expense of the Assignee. In connection with any such assignment (other than a transfer by a Lender to one of its Affiliates), the Assignor (or in the case of Section 3.07, the Borrower) shall pay to the Administrative Agent an administrative fee for processing such assignment in the amount of U.S.$3,500.

(c) Nothing herein shall prohibit any Lender from pledging or assigning any Maturity "B" Note to any Federal Reserve Bank of the United States in accordance with applicable law and without compliance with the foregoing provisions of this Section 13.06; provided, however, that such pledge or assignment shall not release such Lender from its obligations hereunder.

(d) Any Lender may, without any consent of the Borrower, the Administrative Agent or any other third party at any time grant to any Person that is not a Competitor (each a "Participant") participating interests in its Loans; provided however that if the value of the rights and obligations assigned is less than euro 50,000 (or its equivalent in another currency or currencies) the assignee or transferee otherwise qualifies as a Professional Market Party. In the event of any such grant by a Lender of a participating interest to a Participant, whether or not upon notice to the Borrower and the Administrative Agent, such Lender shall remain responsible for the performance of its obligations hereunder, and the Borrower and the Administrative Agent shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement pursuant to which any Lender may grant such a participating interest shall provide that such Lender shall retain the sole right and responsibility to enforce the obligations of the Borrower hereunder, including the right to approve any amendment, modification or waiver of any provision of this Agreement; provided, however, that such participation agreement may provide that such Lender will not agree to any modification, amendment or waiver of this Agreement extending the maturity of any Obligation in respect of which the participation was granted, or reducing the rate or extending the time for payment of interest thereon or reducing the principal thereof, or reducing the amount or basis of calculation of any fees to accrue in respect of the participation, without the consent of the Participant. The Borrower agrees that each Participant shall, to the extent provided in its participation agreement, be entitled to the benefits of Sections 3.03 and 3.06 with respect to its participating interest as if it were a Lender named herein; provided, however, that the Borrower shall not be required to pay any greater amounts pursuant to such Sections than it would have been required to pay but for the sale to such Participant of such Participant's participation interest. An assignment or other transfer which is not permitted by paragraph (b) or (c) above shall be given effect for purposes of this Agreement only to the extent of a participating interest granted in accordance with this paragraph (d).

(e) Any Lender may, in connection with any assignment or participation or proposed assignment or participation pursuant to this Section 13.06, disclose to the Assignee or Participant or proposed Assignee or Participant, any information relating to the Borrower furnished to such Lender by or on behalf of the Borrower; provided that, prior to any such disclosure, the Assignee or Participant or proposed Assignee or Participant shall agree to preserve the confidentiality of any Confidential Information relating to the Borrower received by it from such Lender.

13.07 Right of Set-off. In addition to any rights and remedies of the Lenders provided by law, each such Lender shall have the right, without prior notice to the Credit Parties, any such notice being expressly waived by the Credit Parties to the extent permitted by applicable law, upon any amount becoming due and payable by the Credit Parties hereunder (whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender, or any branch or agency thereof to or for the credit or the account of the Credit Parties. Each Lender agrees promptly to notify such Credit Party, as the case may be, and the Administrative Agent after any such set-off and application made by such Lender, provided that the failure to give such notice shall not affect the validity of such set-off and application.

13.08 Confidentiality. Neither the Administrative Agent nor any Lender shall disclose any Confidential Information to any other Person without the prior written consent of the Credit Parties, other than (a) to the Administrative Agent's, or such Lender's Affiliates and their officers, directors, employees, agents and advisors and, as contemplated by Section 13.06(e), to actual or prospective Assignees and Participants, and then only on a confidential basis, (b) as required by any law, rule or regulation (including as may be required in connection with an audit by the Administrative Agent's, or such Lender's independent auditors, and as may be required by any self-regulating organizations) or as may be required by or necessary in connection with any judicial process and (c) as requested by any state, federal or foreign authority or examiner regulating banks or banking. Notwithstanding the foregoing or anything contained in any Transaction Document to the contrary, the parties (and each employee, representative, or other agent of the parties) may disclose to any and all persons, without limitation of any kind, the tax treatment and any facts that may be relevant to the tax structure of the transactions contemplated by this Agreement, provided, however, that no party (and no employee, representative, or other agent thereof) shall disclose any other information that is not relevant to understanding the tax treatment and tax structure of such transactions (including the identity of any party and any information that could lead another to determine the identity of any party), or any other information to the extent that such disclosure could result in a violation of any federal or state securities law.

13.09 Use of English Language. All certificates, reports, notices and other documents and communications given or delivered pursuant to this Agreement shall be in the English language. Except in the case of the laws of, or official communications of, Mexico or The Netherlands (as applicable), the English language version of any such document shall control the meaning of the matters set forth therein.

13.10 GOVERNING LAW. THIS AGREEMENT AND THE OTHER TRANSACTION DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK.

13.11 Submission to Jurisdiction.

(a) Each of the parties hereto hereby irrevocably and unconditionally submits to the non-exclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court located in the Borough of Manhattan in New York City and any appellate court thereof for purposes of any suit, legal action or proceeding arising out of or relating to this Agreement, any other Transaction Document or the transactions contemplated hereby, and each of the parties hereto hereby irrevocably agrees that all claims in respect of such suit, action or proceeding may be heard and determined in such federal or New York State court. Each of the parties hereto also submits to the jurisdiction of the competent courts of its corporate domicile in respect of actions initiated against it as a defendant.

(b) Each of the parties hereto hereby irrevocably waives, to the fullest extent it may effectively do so, the jurisdiction of any court other than those identified in paragraph (a) above and any objection that it may now or hereafter have to the laying of venue of any such suit, action or proceeding in any such federal or New York State court and irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of any such suit, action or proceeding.

(c) Each of the parties hereto irrevocably waives the right to object, with respect to such claim, suit, action or proceeding brought in any such court, that such court does not have jurisdiction over it.

(d) Each of the parties hereto agrees, to the fullest extent it may effectively do so under applicable law, that a final judgment in any suit, action or proceeding of the nature referred to in paragraph (a) above brought in any such court shall be conclusive and binding upon such party and may be enforced in other jurisdictions by suit on the judgment or in any manner provided by law.

(e) **EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR THE ACTIONS OF ANY ARRANGER, THE ADMINISTRATIVE AGENT, OR ANY LENDER IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT THEREOF.**

13.12 Appointment of Agent for Service of Process .

(a) The Credit Parties hereby irrevocably appoint CT Corporation System, with an office on the date hereof at 111 Eighth Avenue, 13th Floor, New York, New York 10011, as its agent (the "Process Agent") to receive on behalf of itself and its property, service of copies of the summons and complaint and any other process which may be served in any such action or proceeding brought in any New York State or federal court sitting in New York City and designates such domicile as the conventional domicile to receive notices hereunder and under the Transaction Documents. The Borrower and each Guarantor hereby appoints as its conventional domicile exclusively to receive any of the notices and service of process, the domicile of the Process Agent mentioned above or any other domicile notified in writing by the Process Agent to the Borrower, the Administrative Agent or any Lender. Such service may be made by delivering a copy of such process to any Credit Party in care of the Process Agent at its address specified above, and the Credit Parties hereby authorize and direct the Process Agent to accept such service on their behalf. The appointment of the Process Agent shall be irrevocable until the appointment of a successor Process Agent. If the Process Agent fails to accept such appointment on or prior to the Conversion Date, the Credit Parties agree to promptly appoint an alternate Process Agent reasonably acceptable to the Administrative Agent with an office in New York City. The Credit Parties further agree to promptly and irrevocably appoint a successor Process Agent in New York City prior to the termination for any reason of the appointment of the initial Process Agent.

(b) Nothing in Section 13.11 or in this Section 13.12 shall affect the right of any party hereto to serve process in any manner permitted by law or limit any right that any party hereto may have to enforce in any lawful manner a judgment obtained in one jurisdiction in any other jurisdiction.

13.13 Waiver of Sovereign Immunity. To the extent that a Credit Party has or hereafter may acquire 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, or otherwise) with respect to itself or its property, the Credit Party hereby irrevocably waives such immunity in respect of its obligations hereunder to the extent permitted by applicable law. Without limiting the generality of the foregoing, the Credit Parties agree that the waivers set forth in this Section 13.13 shall have force and effect to the fullest extent permitted under the Foreign Sovereign Immunities Act of 1976 of the United States and are intended to be irrevocable for purposes of such Foreign Sovereign Immunities Act.

13.14 Judgment Currency.

(a) All payments made under this Agreement and the other Transaction Documents shall be made in Dollars. If for the purposes of obtaining judgment in any

court it is necessary to convert a sum due from the Borrower in Dollars into another currency, the parties hereto agree to the fullest extent that they may legally and effectively do so that the rate of exchange used shall be that at which in accordance with normal banking procedures (based on quotations from four major dealers in the relevant market) the Administrative Agent or each Lender, as the case may be, could purchase Dollars with such currency at or about 10:00 a.m. (New York City time) on the Business Day preceding that on which final judgment is given.

(b) The Obligations in respect of any sum due to any Lender or the Administrative Agent hereunder or under any other Transaction Document shall, to the extent permitted by applicable law notwithstanding any judgment expressed in a currency other than Dollars, be discharged only to the extent that on the Business Day following receipt by such Lender or the Administrative Agent of any sum adjudged to be so due in such other currency such Lender or the Administrative Agent may in accordance with normal banking procedures purchase Dollars with such other currency. If the amount of Dollars so purchased is less than the sum originally due to such Lender or the Administrative Agent, the Credit Parties agree, to the fullest extent it may legally do so, as a separate obligation and notwithstanding any such judgment, to indemnify such Lender or the Administrative Agent against such resulting loss.

(c) Each Credit Party shall, to the fullest extent permitted by law, indemnify the Administrative Agent and each Lender against any loss incurred by the Administrative Agent or such Lender, as the case may be, as a result of any judgment or order being given or made for any amount due under this Agreement or any Maturity "B" Note and being expressed and paid in a currency (the " Judgment Currency") other than Dollars, and as a result of any variation between (i) the rate of exchange at which the Dollar amount is converted into the Judgment Currency for the purpose of such judgment or order and (ii) the spot rate of exchange in New York City at which the Administrative Agent or such Lender, as the case may be, on the date of payment of such judgment or order is able to purchase Dollars with the amount of the Judgment Currency actually received by the Administrative Agent or such Lender. If the amount of Dollars so purchased exceeds the amount originally to be paid to such Lender, such Lender agrees to pay to or for the account of the Borrower (with respect to payments made by the Borrower) and the Guarantors (with respect to payments made by the Guarantors) such excess; provided that such Lender shall not have any obligation to pay any such excess as long as a default by a Credit Party , in its obligations hereunder has occurred and is continuing, in which case such excess may be applied by such Lender to such obligations. The foregoing indemnity shall constitute a separate and independent obligation of each Credit Party and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid. The term "spot rate of exchange" shall include any premiums and costs of exchange payable in connection with the purchase of, or conversion into, United States dollars.

13.15 Counterparts. This Agreement may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which

when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. This Agreement and any communications, notices and exchanges of information pursuant to this Agreement, including signatures, may be delivered by facsimile and shall be treated in all manner and respects as an original document.

13.16 USA PATRIOT Act. The Lenders, to the extent that they are subject to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), hereby notify the Credit Parties that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies each Credit Party, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Act.

13.17 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction, and the remaining portion of such provision and all other remaining provisions hereof will be construed to render them enforceable to the fullest extent permitted by law.

13.18 Survival of Agreements and Representations .

(a) All representations and warranties made herein or in any other Transaction Document shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

(b) The covenants and agreements contained in Sections 3.01, 3.03, 3.05, 3.06, 13.04, 13.05, 13.08, 13.09, 13.11, 13.12 and 13.14, and the obligations of the Lenders under Section 11.07 shall survive the payment of all Obligations and, in the case of any Lender that may assign any interest in its commitment or obligations hereunder, with respect to matters occurring before such assignment, shall survive the making of such assignment to the extent any claim arising thereunder relates to any period prior to such assignment, notwithstanding that such assigning Lender may cease to be a "Lender" hereunder.

13.19 No Novation. The parties intend that the conversion of the Dutch Loans shall not constitute a novation of the obligations of the Credit Parties with respect to the Dutch Loans.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

NEW SUNWARD HOLDING B.V.,
as Borrower

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-Fact

CEMEX S.A.B. DE C.V.,
as Guarantor

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-Fact

CEMEX MÉXICO, S.A. DE C.V.,
as Guarantor

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-Fact

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

ING CAPITAL LLC,
as Administrative Agent

By: /s/ Vicente M. Leon
Name: Vicente M. Leon
Title: Director

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

HSBC SECURITIES (USA) INC.,
as Sole Structuring Agent, Joint Lead
Arranger and Joint Bookrunner

By: /s/ Karen L. Giles
Name: Karen L. Giles
Title: Senior Vice President

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

CAJA DE AHORROS DE MONTEPIEDAD
DE MADRID MIAMI AGENCY,
as Mandated Lead Arranger and Lender

By: /s/ Manuel Nuñez
Name: Manuel Nuñez
Title: General Manager

By: /s/ Pablo Hernandez
Name: Pablo Hernandez
Title: Head of Capital Markets & IFIs

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

BANCO SANTANDER, S.A.,
as Joint Lead Arranger, Joint Bookrunner
and a Lender

By: /s/ Javier Vijedo
Name: Javier Vijedo
Title: Executive Director

By: /s/ Juan de la Hera
Name: Juan de la Hera
Title: Associate

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

HSBC MEXICO, S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC, ACTING THROUGH ITS GRAND CAYMAN BRANCH,
as a Lender

By: /s/ Juan Carlos Chavez Sevilla
Name: Juan Carlos Chavez Sevilla
Title: Attorney in Fact

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

THE ROYAL BANK OF SCOTLAND PLC,
as a Joint Lead Arranger, Joint Bookrunner
and a Lender

By: /s/ Guillermo Poggio
Name: Guillermo Poggio
Title:

By: /s/ Antonio [illegible]
Name: Antonio [illegible]
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

ING BANK, N.V., ACTING THROUGH
ITS CURACAO BRANCH,
as a Mandated Lead Arranger and a Lender

By: /s/ Remco Gaanderse
Name: Remco Gaanderse
Title: Country Manager

By: /s/ H.F.J. (Freddy) ten Holt
Name: H.F.J. (Freddy) ten Holt
Title: Chief Financial Officer

SCHEDULE 2.01(a)

Commitments

Lender	Amount (in USD)	Percentage
Banco Santander, S.A.	$ 125,000,000	23.8%
HSBC Mexico, S.A., Institución de Banca Multiple, Grupo Financiero HSBC, *acting through its Grand Cayman branch*	$ 125,000,000	23.8%
The Royal Bank of Scotland PLC	$ 125,000,000	23.8%
Caja de Ahorros y Monte de Piedad de Madrid Miami Agency	$ 75,000,000	14.3%
ING Bank, N.V., *acting through its Curacao branch*	$ 75,000,000	14.3%
TOTAL:	$525,000,000	100%

SCHEDULE 2.01(b)

Lending Offices

Lender	Lending Offices
Banco Santander, S.A.	Banco Santander, S.A. Ciudad Grupo Santander Avenida de Cantabria s/n Admón. Créditos Sindicados Edificio Marisma – Planta Baja 28660 Boadilla del Monte – Madrid (Spain) Attention: José Manuel Llorente or Álvaro del Villar Telephone: +34 91 289 30 11 / 12 Fax: +34 91 257 11 64 / 65
Caja de Ahorros y Monte de Piedad de Madrid Miami Agency	701 Brickell Ave, Suite 2000 Miami, FL 33131 Attention: Jesus Miramon Telephone: +1 (305) 371-3833 Fax: +1 (305) 371-4243
HSBC Mexico, S.A., Institución de Banca Multiple, Grupo Financiero HSBC, *acting through its Grand Cayman branch*	Reforma 347 Piso 12 Oficina 3. Col. Cuauhtemoc. C.P. 06500 México City, México Attention: Cordelia Gonzalez Telephone: +52 (81) 8319-2229 Fax: +52 (81) 8319-2349
ING Bank, N.V., *acting through its Curacao branch*	ING Bank, N. V.-Curaçao Branch Suyen Plaate-Felipa Credit Administration ING Bank N.V. Curaçao Branch Kaya W.F.G. (Jombi) Mensing 14 P.O.Box 3895, Curaçao, Netherlands Antilles T: + 599 9 4327269 F: + 599 9 4327502 E: suyen.felipa@americas.ing.com
The Royal Bank of Scotland PLC	36 St. Andrew Square, Edinburgh EH2 2YB Scotland Telephone: +44 (207) 672-6309 Fax: +44 (207) 085-4584

SCHEDULE 2.01(c)

Notice Addresses

Party	Notice Address
New Sunward Holding B.V., as BORROWER	Riverstate Building Amsteldijk 166 1079 LH Amsterdam The Netherlands Fax: +31 (0) 20-644 40 95
CEMEX, S.A.B. de C.V., as GUARANTOR	CEMEX, S.A.B. de C.V. Ave. Ricardo Margáin Zozaya #325 Col. Valle del Campestre Garza García, Nuevo León México 66265 Attention: CEMEX Back-Office Telephone: +52 (818) 888-4635, 4113, 4093 Fax: +52 (818) 888-4519
CEMEX México, S.A. de C.V., as GUARANTOR	CEMEX, S.A.B. de C.V. Ave. Ricardo Margáin Zozaya #325 Col. Valle del Campestre Garza García, Nuevo León México 66265 Attention: CEMEX Back-Office Telephone: +52 (818) 888-4635, 4113, 4093 Fax: +52 (818) 888-4519
ING Capital LLC, as ADMINISTRATIVE AGENT	1325 Avenue of the Americas New York, NY 10019 USA Attention: Soo Lee Telephone: +1 (646) 424-8236 Fax: +1 (646) 424-8223
HSBC Securities (USA) Inc., as SOLE STRUCTURING AGENT, JOINT LEAD ARRANGER and JOINT BOOKRUNNER	452 Fifth Avenue New York, NY 10018 USA Attention: Karen Giles Telephone: +1 (212) 525-3652
Banco Santander, S.A., as	Banco Santander, S.A.

Party	Notice Address
JOINT LEAD ARRANGER and JOINT BOOKRUNNER	Ciudad Grupo Santander Avenida de Cantabria s/n Admón. Créditos Sindicados Edificio Encinar – Primera Planta 28660 Boadilla del Monte – Madrid (**Spain**) Attention: José Luis Gómez Solórzano Telephone: +34 91 289 15 82 Fax: +34 91 257 1617 **CC:** Banco Santander S.A. Prol. Paseo de la Reforma No. 550 Mod. 110 Col. Lomas de Santa Fe, 01219 **México,** DF Attention: Wade A. Kit Telephone: +52 (55) 5257-8520 Fax: +52 (55) 5269-1824
The Royal Bank of Scotland PLC, as JOINT LEAD ARRANGER and JOINT BOOKRUNNER	C/ José Ortega y Gasset, 7, 28006 Madrid, Spain Attention: Franciso Serrat Telephone: +34 (91) 438 52 25 Fax: +34 (91) 438 53 07
Caja de Ahorros y Monte de Piedad de Madrid Miami Agency	701 Brickell Ave, Ste. 2000 Miami, FL 33131 Attention: Jesus Miramon Telephone: +1 (305) 371-3833 Fax: +1 (305) 371-4243
HSBC Mexico, S.A., Institución de Banca Multiple, Grupo Financiero HSBC, *acting through its Grand Cayman branch*, as LENDER	Blvd. Díaz Ordaz #123 Pte. Torre Sur, Piso 5 Col. Santa Maria, C.P. 64650 Monterrey, M.L. México Attention: Cordelia Gonzalez Telephone: +52 (81) 8319-2229 Fax: +52 (81) 8319-2349
ING Bank, N.V., *acting through its Curacao branch*	ING Bank, N.V., Rep. Office (Mexico City) Bosque de Alisos 45 B Bosques de las Lomas, 05120 México D.F. Attention: Fernanda Hurtado Telephone: +52 (55) 5258-2197 Fax: +52 (55) 5259-2701 E-mail: Fernanda.Hurtado@Americas.ing.com

SCHEDULE 8.02(e)

LIEN SCHEDULE

(Figures in Millions, USD)

NAME OF CEMEX SUBSIDIARY	COUNTERPARTY	LIEN CONCEPT	Nov-08	AGREEMENT TYPE
CEMEX, Inc.	Hampton	Land related with a Promissory Note	$0.033	Promissory Note between Mr. Paul E. Hampton, Jr. and wife and Cemex, Inc., dated October 31, 1985.
RMC Beton Śląsk Sp. z o.o.	SG Equipment Leasing Polska Sp. z o.o.	Plant Equipment Lien	$1.884	Equipment Leasing Agreement by and between SG Equipment Leasing Polska Sp. z o.o. RMC Beton Śląsk Sp. z o.o. and dated June 23rd, 2006.
CEMEX BETONS CENTRE et BRETAGNE	CITICAPITAL	Plant Equipment Lien	$0.007	Leasing Agreement CITICAPITAL - BETON DE FRANCE CENTRE ET BRETAGNE dated June 30, 2002.
CEMEX GRANULATS RHONE-MEDITERRANEE	SLIBAIL IMMOBILIER	Plant Equipment Lien	$0.698	Leasing Agreement by and between "SLIBAIL IMMOBILIER" and "MORRILLON CORVOL RHONE MEDITERRANEE dated July 24, 2000.
CEMEX BETONS NORD QUEST	SLIBAIL IMMOBILIER	Plant Equipment Lien	$0.123	Leasing Agreement by and between SLIBAIL IMMOBILIER - SAS BETON DE FRANCE NORMANDIE dated June 03 2002.
ETABLISSEMENT CHARROY	BAIL ACTEA	Plant Equipment Lien	$0.035	Leasing Agreement by and between BAIL ACTEA - SA Ets CHARROY dated August 28 2003.
Cemex SIA	Disko Leasing GmbH	Plant Equipment Lien	$0.083	Leasing Agreement between DISKO Leasing und Bank für Investitionsfinanzierung - Readymix Kies & Beton AG, dated March 1st, 2000.
Transbeton Lieferbeton Gesellschaft m.b.H.	Raiffeisenbank Bruck an der Mur eg. Gen.	Plant Equipment Lien	$2.964	Leasing agreement on movables entered by and between Raiffeisen-Leasing Mobilien und KFZ GmbH and Trans-Beton Ges.m.b.H. dated March 31, 2004.
Quarzsandwerk Wellmersdorf GmbH & Co. KG	Raiffeisenbank Obermain Nord eG	Land Lien	$0.037	Leasing Agreement by and between Quarzsandwerk Wellmersdorf GmbH & Co. KG and Raiffeisenbank Obermain Nord eG dated March 8, 1999.
CEMEX Kies Hamburg GmbH & Co. KG	Kreissparkasse Herzogfum Lauenburg	Land Lien	$0.247	Leasing Agreement Kreissparkasse Herzogfum Lauenburg - Wunder GmbH, Wunder Kiestransporte GmbH undGünter Wunder Baustoffhandel dated March 22, 1994.
Cemex UK Operations Limited	ING Lease (UK) Limited	Plant Equipment Lien	$18.483	Leasing Master Agreement by and between Kleinworth Benson Fleet Finance Limited and Rombus Materials Limited dated December 31, 1997.

NAME OF CEMEX SUBSIDIARY	COUNTERPARTY	LIEN CONCEPT	Nov-08	AGREEMENT TYPE
				Assignment and Continuation Schedule dated September 30, 2005 between ING Lease Fleet Finance Limited and Cemex UK Operations Ltd.
Cemex UK Operations Limited	Lloyds TSB Asset Finance	Plant Equipment Lien	$ 2.948	Lease Agreement by and between The Rugby Group PLC and UDT Budget Leasing Limited dated 21 of December 1998.
RMC Beton Śląsk Sp. z o.o.	Bankowy Fundusz Leasingowy S.A.	Plant Equipment Lien	$ 0.017	Leasing Agreement by and between Bankowy Fundusz Leasingowy, S.A. and RMC Beton Śląsk Sp. z o.o. dated March 11th, 2008.
Cemex S.A.B. de C.V. and Subsidiaries	Different Banks	Cash Collateral	$ 693.412	ISDA Agreements Different Banks Regarding Margin Calls in Derivatives Instruments
Cemex S.A.B. de C.V. and Subsidiaries	Banco Nacional de Comercio Exterior	Cemex, S.A.B. de C.V. and Cementos Chihuahua, S.A.B. de C.V. shares	$ 250.000	Credit Agreement entered on October 14, 2008 Secured with a Stock Pledge
Cemex S.A.B.de C.V. and Cemex México, S.A. de C.V.	Nacional Financiera S.N.C.,	Cemex México's headquarters Edificio Constitución #444 Monterrey, N.L.	$ 52.985	Credit Agreement to issue the government guaranty (aval) on Cemex' short term Certificados Bursátiles entered on October 22, 2008.
		Total	$ 1,023.956	

SCHEDULE 8.04

Qualified Receivables Transactions

	Description	Counterparty	Date	Currency	Amount in Million	Amount in USD million	Maturity
CEMEX France S.A.S.	Amendent and Restated Receivables Assignment Agreement (as amended)	ING Bank (France) S.A.	May 31, 2006	EURO	160,000,000	201,840,000	May 31, 2009
Cemex Inc.	Amended and Restated Receivables Purchase Agreement (as amended)	JP Morgan Chase Bank, N.A./ Lloyds TSB Bank plc	March 20, 2008	USD	500,000,000	500,000,000	March 20, 2009
Cemex Mexico, S.A. de C.V.	Agreement for the Sale and Transfer of Ownership of Designated Receivables	WLB Funding, S.A. de C.V., SOFOM, E.N.R.	January 9, 2008	MXN	2,298,000,000	168,946,985	January 9, 2009
Cemex España, S.A.	Amended and Restated Receivables Purchase Agreement (as amended)	WestLB AG	May 9, 2006	EURO	300,000,000	378,450,000	May 9, 2011
TOTAL						**1,249,236,985**	

Exchange rates as of Dec 1, 2008 to be updated one day before agreement is entered

US$/Euro	1.2615
US$/MXN	0.0735

EXECUTION VERSION
Exhibit A to Maturity
Loan "B" Agreement

FORM OF MATURITY "B" NOTE

U.S.$ _____ Date _____
New York, New York

FOR VALUE RECEIVED, the undersigned, NEW SUNWARD HOLDING B.V., a private company with limited liability formed under the laws of The Netherlands with its corporate seat in Amsterdam, The Netherlands (the "Borrower"), unconditionally promises to pay, without setoff or counterclaim, to the order of (the "Lender") on the Maturity Date, as defined in the Loan Agreement (as defined below), at the office of the Administrative Agent, in lawful money of the United States of America and in immediately available funds, the principal amount of Dollars (U.S. $) or, if less, the aggregate unpaid principal amount of the Loan made by the Lender to the undersigned pursuant to the Loan Agreement that is then due and payable to the Lender pursuant thereto. The undersigned further unconditionally agrees to pay, without setoff or counterclaim, interest in like money at such office from the date hereof until paid in full on the unpaid principal amount hereof from time to time outstanding at the applicable interest rate per annum determined as provided in, and payable in accordance with, the Loan Agreement. The Lender is authorized to record the date and amount of the Loan made by the Lender pursuant to the Loan Agreement, the date and amount of each repayment of principal hereof, the date of each continuation pursuant to Section 2.01(e) of the Loan Agreement and the principal amount subject thereto and the interest rate and interest period in respect thereto on the schedules annexed hereto and made a part hereof or on any other record customarily maintained by the Lender with respect to this Maturity "B" Note and any such recordation shall constitute prima facie evidence of the accuracy of the information so recorded; provided, however, that the failure of the Lender to make such recordation (or any error in such recordation) shall not affect the obligations of the Borrower hereunder or under the Loan Agreement.

This Maturity "B" Note is one of the Maturity "B" Notes referred to in the Senior Unsecured Maturity Loan "B" Agreement, dated as of [•], among the Borrower, the Guarantors, the several Lenders party thereto, HSBC Securities (USA) Inc., as Sole Structuring Agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland PLC, as Joint Lead Arrangers and Joint Bookrunners, and ING Capital LLC as Administrative Agent (as the same may from time to time be amended, supplemented or otherwise modified, the " Loan Agreement"; terms defined therein being used herein as so defined), and is entitled to the benefits thereof and is subject to optional and mandatory prepayment in whole or in part as provided therein.

Upon the occurrence of anyone or more of the Events of Default specified in the Loan Agreement, all amounts remaining unpaid on this Maturity "B" Note shall become, or may be declared to be, immediately due and payable, all as provided therein.

The Borrower agrees to pay all reasonable and documented, out-of-pocket costs and expenses incurred by the Lender in connection with the enforcement of and/or preservation of any rights under the Loan Agreement, the other Transaction Documents and this Maturity "B" Note (whether through negotiations, legal proceedings or otherwise), including the reasonable fees and reasonable and documented out-of-pocket expenses of special Dutch, Mexican, and New York counsel to the Lender.

Each Credit Party hereby irrevocably and unconditionally submits for itself and its property in any legal action or proceeding relating to this Maturity "B" Note and the Loan Agreement or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court located in the Borough of Manhattan in New York City and any appellate court thereof, to the jurisdiction of any competent court in the place of its corporate domicile and any appellate courts thereof, and consents that any such suit, action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the laying of venue of any such suit, action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same. Each Credit Party hereby irrevocably agrees that service of all writs, process and summonses in any such suit, action or proceeding brought in the State of New York may be made upon CT Corporation System having offices on the date hereof at 111 Eighth Avenue, 13th Floor, New York, New York 10011, U.S.A. (the "Process Agent"), and each Credit Party hereby irrevocably appoints the Process Agent as its authorized agent to accept such service of any and all such writs, process and summonses, designates such domicile as the conventional domicile to receive notices and agrees that the failure of the Process Agent to give any notice of any such service of process to each Credit Party shall not impair or affect the validity of such service or of any judgment based thereon.

The obligations of the Borrower hereunder to make payments in Dollars shall not be discharged or satisfied by any tender or recovery pursuant to any judgment expressed in or converted into any other currency except to the extent that such tender or recovery results in the effective receipt by the Lender of the full amount of Dollars payable hereunder and the Borrower shall be obligated to indemnify the Lender (and the Lender shall have an additional legal claim) for any difference between such full amount and the amount effectively received by the Lender pursuant to any such tender or recovery. The Lender's determination of amounts effectively received by it shall be presumptively correct in the absence of manifest error.

To the extent that the· Borrower has or hereafter may acquire 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) with respect to itself or its property, the Borrower hereby irrevocably waives such immunity in respect of its obligations under this Maturity "B" Note and the other Transaction Documents. The foregoing waiver and consent are intended to be effective to the fullest extent now or hereafter permitted by applicable law of any 3 jurisdiction in which any suit, action or proceeding with respect to this Maturity "B" Note may be commenced.

THIS MATURITY "B" NOTE SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. NEW SUNWARD HOLDING B.V.

NEW SUNWARD HOLDINGS B.V.

By: _____
Title: _____

Guaranteed:

CEMEX, S.A.B. de C.V.,
in its capacity as Guarantor
Under Article IX of the Loan Agreement

By: _____
Title: _____

Guaranteed:

CEMEX MÉXICO, S.A. de C.V.,
in its capacity as Guarantor
Under Article IX of the Loan Agreement

By: _____
Title: _____

LOANS

Date	Amount of Loan	Interest Period and Interest Rate Applicable Thereto	Amount of Principal Repaid	Notation Made By

EXHIBIT B

FORM OF NOTICE OF CONTINUATION

ING Capital LLC,
as Administrative Agent
[ ]
[ ]
[ ]

Ladies and Gentlemen:

The undersigned, New Sunward Holding, B.V. (the "Borrower"), refers to the Senior Unsecured Maturity Loan "B" Agreement, dated as of June 2, 2008, among the Borrower, CEMEX, S.A.B. de C.V., as Guarantor, CEMEX Mexico, S.A. de C.V., as Guarantor, the Lenders party thereto, ING Capital LLC, as Administrative Agent, HSBC Securities (USA) Inc., as Sole Structuring Agent, and HSBC Securities (USA) Inc., Banco Santander, S.A. and The Royal Bank of Scotland PLC, as Joint Lead Arrangers and Joint Lead Bookrunners (as the same may be amended, supplemented or otherwise modified from time to time, the "Loan Agreement"), and hereby gives you notice, irrevocably, pursuant to Section 2.01(e) of the Loan Agreement, that the undersigned hereby requests to continue the borrowing of the Loans referred to below. In regard to that request, the undersigned sets forth below the information relating to such continuation (the "Proposed Continuation") as required by Section 2.01(e) of the Loan Agreement:

(i) The Proposed Continuation relates to the borrowing of the Loans originally made on [•],200[•] (the "Outstanding Borrowing") in the principal amount of [•] and currently maintained as a borrowing of Loans with an Interest Period ending on [ ].

(ii) The Business Day of the Proposed Continuation is [•].[1]

(iii) The Outstanding Borrowing shall be continued as a borrowing of Loans with an Interest Period of [ ].

[1] Shall be a Business Day at least three Business Days after the date hereof; provided, that such notice shall be deemed to have been given on a certain day only if given before 10:00 a.m. (New York City time) on such day.

Very truly yours,

NEW SUNWARD HOLDING, B.V.

By: _____
Name:
Title:

EXHIBIT C

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (the " Assignment and Assumption"), dated , is entered into by and between (the "Assignor") and (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Senior Unsecured Maturity Loan "B" Agreement, dated as of [.], among New Sunward Holding B.V., as Borrower (the "Borrower"), the other Credit Parties party thereto, as Guarantors, the Lenders party thereto, ING Capital LLC, as Administrative Agent, HSBC Securities (USA) Inc., as Sole Structuring Agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland PLC, as Joint Lead Arrangers and Joint Bookrunners (as the same may be amended, supplemented or otherwise modified from time to time, the " Loan 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 Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Loan Agreement, as of the Effective Date set forth below, and established in accordance with Section 13.06 of the Loan Agreement (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Loan Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the facility identified below 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) against any Person, whether known or unknown, arising under or in connection with the Loan 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 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 arid assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the " Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: _____

2. Assignee: _____

3. Borrower: New Sunward Holding B.V.

4. Administrative Agent: lNG Capital LLC

Aggregate Amount of Assignor's Outstanding Loan	Amount of Loan Assigned	Proportionate Share Assigned
$ _____	$ _____	$ _____

Effective Date: _____

[SIGNATURE PAGE FOLLOWS]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME]

By: _____
Name:
Title:

ASSIGNEE

[NAME]

By: _____
Name:
Title:

Address for Notices:

_____
_____
_____
_____
_____

Accepted:

ING Capital LLC,
as Administrative Agent

By: _____
Name:
Title:

[NEW SUNWARD HOLDING, B.V.,
the Borrower

By: _____
Name:
Title:]

[CEMEX, S.A.B. de C.V.,
the Parent

By: _____
Name:
Title:]

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (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; (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Loan Agreement or any other Transaction Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Transaction Documents, (iii) the financial condition of the Borrower, the other Credit Parties, any of their respective Subsidiaries or Affiliates or any other Person obligated in respect of the Loan Agreement or any other Transaction Document or (iv) the performance or observance by the Borrowers, the other Credit Parties, any of their respective Subsidiaries or Affiliates or any other Person of any of their respective obligations under the Loan Agreement or any other Transaction Document and (c) notwithstanding being released from all obligations under the Loan Agreement, will make arrangements such that a replacement Dutch "B" Note is issued to the Assignee at the expense of the Assignee.

1.2 Assignee. The 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 and perform the obligations of a Lender under the Loan Agreement, (ii) it satisfies the requirements, if any, specified in the Loan Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Loan Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Loan Agreement and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Loan Agreement, duly completed and executed by the Assignee; (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the 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 Transaction Documents, and (ii) it will perform all of the obligations of the Transaction Documents, which by their terms are required to be performed by it as a Lender; and (c) appoints and authorizes the Administrative Agent to take

such action as agent on its behalf and to exercise such powers under the Transaction Documents as are delegated to or otherwise conferred upon the Administrative Agent by the terms thereof, together with such powers as are reasonably incidental thereto.

2. Payments. From and after the Effective Date, the Borrower shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) for the account of **[the Assignor for amounts which have accrued prior to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date] [the Assignee]** .

3. Effect of Assignment. Upon the delivery of a fully executed original hereof to the Administrative Agent, as of the Effective Date, (i) the Assignee shall be a party to the Loan Agreement and, to the extent provided in this Assignment, shall have the rights and obligations of a Lender thereunder and under the other Transaction Documents and (ii) the Assignor shall, to the extent provided in this Assignment and Assumption, relinquish its rights and be released from its obligations under the Transaction Documents.

4. 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 and enforced in all respects in accordance with the laws of the State of New York.

Exhibit D

FORM OF OPINION OF SPECIAL NEW YORK COUNSEL TO THE CREDIT PARTIES

December 31, 2008

To the Administrative Agent and the
Banks listed on Schedule I hereto

Re: New Sunward Holding B.V. Senior Unsecured Maturity Loan "B" Agreement[2]

Ladies and Gentlemen:

We have acted as special New York counsel to New Sunward Holding B.V., a private company with limited liability formed under the laws of The Netherlands, with its corporate seat in Amsterdam, The Netherlands (the "Borrower"), CEMEX, S.A.B. de C.V., a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States (the "Parent"), and CEMEX México, S.A. de C.V., a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States ("CEMEX México" and, together with the Parent, each, a "Guarantor," and collectively, the "Guarantors"), in connection with the preparation, execution and delivery of the Senior Unsecured Maturity Loan "B" Agreement, dated as of the date hereof (the "Loan Agreement"), by and among the Borrower, each Guarantor, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, Caja de Madrid – Miami Agency and ING Bank, N.V. *acting through its Curacao branch*, each as mandated lead arranger, ING Capital LLC, as administrative agent, and the several Lenders party thereto and certain other agreements, instruments and documents related to the Loan Agreement. This opinion is being delivered pursuant to Section 4.02(a) of the Loan Agreement. For purposes of this opinion, the Borrower and the Guarantors are also referred to individually as a "Credit Party" and collectively as the "Credit Parties."

[2] SASMF will deliver this opinion at conversion

In rendering the opinions set forth herein, we have examined and relied on originals or copies of the following:

(a) the Loan Agreement;

(b) the form of Maturity "B" Note attached as Exhibit A to the Loan Agreement (the " Maturity "B" Notes");

(c) the certificates of Humberto Francisco Lozano Vargas, Corporate Financing Director of the Parent and principal financial officer of CEMEX México and the Borrower, attached as Exhibit A hereto, and Lic. Ramiro G. Villarreal Morales, General Counsel to each Credit Party, attached as Exhibit B hereto; and

(d) such other documents as we have deemed necessary or appropriate as a basis for the opinions set forth below.

In our examination we have assumed the genuineness of all signatures including endorsements, the legal capacity and competency of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. As to any facts relevant to this opinion which we did not independently establish or verify, we have relied upon statements and representations of the Credit Parties and their officers and other representatives and of public officials, including the facts and conclusions set forth therein.

We do not express any opinion as to the laws of any jurisdiction other than (i) the Applicable Laws of the State of New York, (ii) the Applicable Laws of the United States of America (including, without limitation, Regulations T, U and X of the Federal Reserve Board), and (iii) solely, for purposes of our opinion in paragraph 7 herein, the Investment Company Act of 1940, as amended. Insofar as the opinions expressed herein relate to matters governed by laws other than those set forth in the preceding sentence, we do not express any opinion as to the effect of such laws or as to the effect thereof on the opinions herein stated.

Capitalized terms used herein and not otherwise defined herein shall have the same meanings herein as ascribed thereto in the Loan Agreement. The Loan Agreement and the form of Maturity "B" Note attached as Exhibit A to the Loan Agreement shall hereinafter be referred to collectively as the "Transaction Agreements." "Applicable Laws" shall mean those laws, rules and regulations which, in our experience, are normally applicable to transactions of the type contemplated by the Transaction Agreements (other than the United States federal securities laws, state securities or blue sky laws, antifraud laws and the rules and regulations of the Financial Industry Regulatory Authority), without our having made any special investigation as to the applicability of any specific law, rule or regulation, and which are not the subject of a specific opinion herein referring expressly to a particular law or laws. " Governmental Approval" means any consent, approval, license, authorization or validation of, or filing, recording or

registration with, any governmental authority pursuant to the Applicable Laws of the State of New York. " Applicable Orders" means those orders or decrees of governmental authorities identified in the certificate attached as Exhibit B hereto. "Applicable Contracts" mean those agreements or instruments listed on Schedule II hereto. "Uniform Commercial Code" means the Uniform Commercial Code as in effect on the date hereof in the State of New York (without regard to laws referenced in Section 9-201 thereof).

Based upon the foregoing and subject to the limitations, qualifications, exceptions and assumptions set forth herein, we are of the opinion that:

1. The Loan Agreement constitutes the valid and binding obligation of each Credit Party enforceable against such Credit Party in accordance with its terms under the Applicable Laws of the State of New York.

2. The Maturity "B" Notes will constitute the valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their terms under the laws of the State of New York.

3. The execution and delivery by each Credit Party of each Transaction Agreement to which it is a party and the performance by the Credit Parties of their respective obligations thereunder, each in accordance with its terms, do not (i) constitute a violation of, or a default under, any Applicable Contracts or (ii) cause the creation of any security interest upon any property of the Credit Parties pursuant to the Applicable Contracts. We do not express any opinion, however, as to whether the execution, delivery or performance by the Credit Parties of the Transaction Agreements will constitute a violation of, or a default under, any covenant, restriction or provision with respect to financial ratios or tests or any aspect of the financial condition or results of operations of the respective Credit Parties. We call to your attention that certain of the Applicable Contracts are governed by laws other than those as to which we express our opinion. We do not express any opinion as to the effect of such other laws on the opinions herein stated.

4. Neither the execution, delivery or performance by each Credit Party of the Transaction Agreements to which such Credit Party is a party nor the compliance by such Credit Party with the terms and provisions thereof will contravene any provision of any Applicable Law of the State of New York or any Applicable Law of the United States of America.

5. No Governmental Approval, which has not been obtained or taken and is not in full force and effect, is required to authorize, or is required in connection with, the execution or delivery of any Transaction Agreement by each Credit Party party thereto or the enforceability of any Transaction Agreement against any Credit Party party thereto.

6. Neither the execution, delivery nor performance by each Credit Party of its respective obligations under the Transaction Agreements to which it is a party nor compliance by such Credit Party with the terms thereof will contravene any Applicable Order to which such Credit Party is subject.

7. Each Credit Party is not, and solely after giving effect to the loans made pursuant to the Transaction Agreements will not be, an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

Our opinions are subject to the following assumptions and qualifications:

(a) The Maturity "B" Notes will be executed in the form attached as Exhibit A to the Loan Agreement;

(b) enforcement may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium, receivership, conservatorship, or other laws, regulations and administrative orders affecting the rights of creditors of the Credit Parties and by general principles of equity (regardless of whether enforcement is sought in equity or at law);

(c) we have assumed that each Transaction Agreement constitutes the valid and binding obligation of each party to such Transaction Agreement (other than the Credit Parties to the extent expressly set forth herein) enforceable against such other party in accordance with its terms;

(d) we do not express any opinion as to the effect on the opinions expressed herein of (i) the compliance or non-compliance of any party (other than the Credit Parties to the extent expressly set forth herein) to the Transaction Agreements with any state, federal or other laws or regulations applicable to it or (ii) the legal or regulatory status or the nature of the business of any party (other than the Credit Parties to the extent expressly set forth herein);

(e) our opinion is subject to possible judicial action giving effect to governmental actions or foreign laws affecting creditors' rights;

(f) we do not express any opinion as to the enforceability of any rights to contribution or indemnification provided for in the Transaction Agreements which are violative of the public policy underlying any law, rule or regulation (including any federal or state securities law, rule or regulation);

(g) we do not express any opinion with respect to any provision of the Loan Agreement to the extent it authorizes or permits any purchaser of a participation interest or any branch or agency of any Lender to set-off or apply any deposit, property or indebtedness or the effect thereof on the opinions contained herein;

(h) we do not express any opinion on the enforceability of any provision in the Transaction Agreements purporting to prohibit, restrict or condition the assignment of rights under such Transaction Agreements to the extent such restriction on assignability is ineffective pursuant to the Uniform Commercial Code;

(i) in the case of the guaranty contained in Article IX of the Loan Agreement (the " Guaranty"), certain of the provisions, including waivers, with respect to the Guaranty are or may be unenforceable in whole or in part, but the inclusion of such provisions does not affect the validity of the guaranty, taken as a whole;

(j) we do not express any opinion as to the enforceability of Section 9.03(b) of the Loan Agreement to the extent that the same provides that the obligations of the Guarantors are absolute and unconditional irrespective of the invalidity or enforceability of such Loan Agreement against the Guarantor, but the existence of such provisions does not affect the validity of the guaranty;

(k) with respect to the enforceability of all obligations under the Transaction Agreements, we note that a U.S. federal court would award a judgment only in U.S. dollars and that a judgment of a court in the State of New York rendered in a currency other than the U.S. dollar would be converted into U.S. dollars at the rate of exchange prevailing on the date of entry of such judgment; further, we do not express any opinion as to the enforceability of the provisions of the Transaction Agreements providing for indemnity by any party thereto against any loss in obtaining the currency due to such party under the Transaction Agreements from a court judgment in a currency other than the U.S. dollar;

(l) we do not express any opinion as to the enforceability of any section of the Transaction Agreements to the extent it purports to waive any objection a person may have that a suit, action or proceeding has been brought in an inconvenient forum or a forum lacking subject matter jurisdiction;

(m) we have assumed that all conditions precedent contained in Article IV of the Loan Agreement, which conditions require the delivery of documents, evidence or other items satisfactory in form, scope and/or substance to the Administrative Agent or the satisfaction of which is otherwise in the discretion or control of the Administrative Agent have been, or contemporaneously with the delivery hereof will be, fully satisfied or waived;

(n) to the extent that any opinion relates to the enforceability of the choice of New York law and choice of New York forum provisions of the Transaction Agreements, our opinion is rendered in reliance upon N.Y. Gen. Oblig. Law §§ 5-1401, 5-1402 (McKinney 2001) and N.Y. CPLR 327(b) (McKinney 2001) and is subject to the qualifications that such enforceability may be limited by public policy considerations of any jurisdiction, other than the courts of the State of New York, in which enforcement of such provisions, or of a judgment upon an agreement containing such provisions, is sought;

(o) in rendering the opinions expressed above we have also assumed, without independent investigation or verification of any kind, that the choice of New York law to govern

the Transaction Agreements, which are stated therein to be governed thereby, is legal and valid under the laws of other applicable jurisdictions and that insofar as any obligation under any Transaction Agreement is to be performed in any jurisdiction outside the United States of America its performance will not be illegal or ineffective by virtue of the law of that jurisdiction;

(p) we call to your attention that federal courts of the United States of America located in New York could decline to hear a case on grounds of forum non-conveniens or any other doctrine limiting the availability of such courts in New York as a forum for the resolution of disputes not having a sufficient nexus to New York, irrespective of any agreement between the parties;

(q) we do not express any opinions as to the subject matter jurisdiction of the federal courts of the United States of America in any action arising out of or relating to the Transaction Agreements; and

(r) in rendering the opinions expressed above, we note that the various obligations of the Credit Parties in respect of the Transaction Agreements implicate the laws of Mexico and The Netherlands and, accordingly, such obligations may be affected by such laws, as to which we do not express any opinion.

In rendering the foregoing opinions, we have assumed, with your consent, that:

(a) the Borrower is validly existing and in good standing as a private company with limited liability under the laws of The Netherlands; the Parent is validly existing and in good standing as a *sociedad anónima bursátil de capital variable* under the laws of the United Mexican States; and CEMEX México is validly existing and in good standing as a *sociedad anónima de capital variable* under the laws of the United Mexican States;

(b) each Credit Party has the power and authority to execute, deliver and perform all obligations under each Transaction Agreement to which it is a party, and the execution and delivery of each Transaction Agreement to which it is a party and the consummation by such Credit Party of the transactions contemplated thereby have been duly authorized by all requisite action on the part of such Credit Party; each Transaction Agreement has been duly executed and delivered by each Credit Party party thereto;

(c) the execution, delivery and performance by each Credit Party of any such Credit Party's obligations under the Transaction Agreements to which such Credit Party is a party do not and will not conflict with, contravene, violate or constitute a default under (i) the organizational documents of such Credit Party, (ii) any lease, indenture, instrument or other agreement to which such Credit Party or such Credit Party's property is subject (other than the Applicable Contracts as to which we express our opinion in paragraph 3 herein), (iii) any rule, law or regulation to which such Credit Party is subject (other than Applicable Laws of the State of New York and Applicable Laws of the United States of America as to which we express our opinion in paragraph 4 herein) or (iv) any judicial or administrative order or decree of any governmental authority (other than Applicable Orders as to which we express our opinion in paragraph 6 herein); and

(d) no authorization, consent or other approval of, notice to or filing with any court, governmental authority or regulatory body (other than Governmental Approvals as to which we express our opinion in paragraph 5 herein) is required to authorize or is required in connection with the execution and delivery by or enforceability against each Credit Party of any Transaction Agreement to which such Credit Party is a party or the transactions contemplated thereby.

We understand that you are separately receiving opinions, with respect to certain of the foregoing assumptions from Lic. Ramiro G. Villarreal, General Counsel of each Credit Party, and Warendorf, special Dutch counsel to the Borrower, and we are advised that such opinions contain qualifications. Our opinions herein stated are based on the assumptions specified above and we do not express any opinion as to the effect on the opinions herein stated of the qualifications contained in such other opinions.

This opinion is being furnished only to you in connection with the Transaction Agreements and is solely for your benefit and is not to be used, circulated, quoted or otherwise referred to for any other purpose or relied upon by any other person or entity for any purpose without our prior written consent; provided that (i) Lic. Ramiro G. Villarreal and Warendorf may rely upon this opinion as to matters of the laws of the State of New York and of the United States of America and in rendering their opinions in connection with the Loan Agreement and (ii) any Person who becomes a Lender under Section 13.06(b) of the Loan Agreement after the date hereof may rely on this opinion as if it were originally addressed to such Lender and delivered on the date hereof. We do not assume any obligation to revise or supplement this opinion letter should any factual matters change or other transactions occur or should any laws or regulations be changed by legislative or regulatory action, judicial decision or otherwise.

Very truly yours,

Schedule I to the
Opinion of Special Counsel

HSBC Securities (USA) Inc., as Sole Structuring Agent, Joint Lead Arranger and Joint Bookrunner

Banco Santander, S.A., as Joint Lead Arranger, Joint Bookrunner and Lender

The Royal Bank of Scotland Plc, as Joint Lead Arranger, Joint Bookrunner and Lender

Caja de Madrid – Miami Agency, as Mandated Lead Arranger and Lender

ING Bank, N.V. *acting through its Curacao branch*, as Mandated Lead Arranger and Lender

HSBC Mexico, S.A., Institución de Banca Multiple, Grupo Financiero HSBC, *acting through its Grand Cayman branch*, as Lender

ING Capital LLC, as Administrative Agent

Schedule II to the
Opinion of Special Counsel

Applicable Contracts

(1) Indenture, dated as of October 1, 1999, among CEMEX, S.A.B. de C.V. (formerly, CEMEX, S.A. de C.V., "CEMEX"), as issuer, CEMEX México, S.A. de C.V. (formerly, Serto Construcciones, S.A. de C.V. and successor guarantor to TOLMEX, S.A. de C.V., Cemento Portland Nacional, S.A. de C.V., and Cementos Mexicanos, S.A. de C.V., ("CEMEX México") and Empresas Tolteca de México, S.A. de C.V. ("Empresas Tolteca"), as guarantors, and U.S. Bank Trust National Association, as trustee, relating to U.S.$200,000,000 original aggregate principal amount of 9.625% Notes due 2009 of CEMEX, as amended by the First Supplemental Indenture, dated as of April 17, 2002, the Second Supplemental Indenture, dated as of October 4, 2004, and the Third Supplemental Indenture, dated as of October 20, 2006.

(2) Credit Agreement, dated as of May 31, 2005, by and among CEMEX, as borrower, CEMEX México and Empresas Tolteca, as guarantors, the several lenders party thereto, Barclays Bank PLC, New York Branch, as administrative agent, Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner, for an aggregate principal amount of U.S.$1,200,000,000, as amended by Amendment No. 1 thereto, dated as of June 19, 2006, the Amendment and Waiver Agreement, dated as of November 30, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Limited Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of December 31, 2008.

(3) Amended and Restated Credit Agreement, dated as of June 6, 2005, by and among CEMEX, as borrower, CEMEX México and Empresas Tolteca, as guarantors, Barclays Bank PLC, New York Branch, as issuing bank and documentation agent, ING Bank N.V., as issuing bank, the several lenders party thereto, and Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint bookrunner, Citigroup Global Markets Inc., as joint bookrunner and syndication agent, and ING Capital LLC, as joint bookrunner and administrative agent, for an aggregate principal amount of U.S.$700,000,000, as amended by Amendment No. 1 thereto, dated as of June 21, 2006, the Amendment and Waiver Agreement, dated as of December 1, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as December 31, 2008.

(4) Amended and Restated Facilities Agreement*, dated as of December 31, 2008 for New Sunward Holding B.V. (" NSH") as borrower, CEMEX, CEMEX México and Empresas Tolteca as guarantors and Citibank, N.A. as agent.

(5) Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of U.S. $900,000,000 Callable Perpetual Dual-Currency Notes.

(6) Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of U.S. $350,000,000 Callable Perpetual Dual-Currency Notes.

(7) Note Indenture, dated as of February 12, 2007, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of U.S. $750,000,000 Callable Perpetual Dual-Currency Notes.

(8) Note Indenture, dated as of May 9, 2007, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of €730,000,000 Callable Perpetual Dual-Currency Notes.

(9) Credit Agreement, dated as of June 25, 2008, by and among CEMEX, CEMEX México and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch for an aggregate principal amount of U.S. $500,000,000, as amended by the First Amendment, dated as of December 31, 2008.

* The Facilities Agreement referred to in Item 4 is governed by English law.

Exhibit A to the
Opinion of Special Counsel

[ATTACHED SEPARATELY]

Exhibit B to the
Opinion of Special Counsel

[ATTACHED SEPARATELY]

Exhibit E

FORM OF OPINION OF IN-HOUSE COUNSEL TO THE CREDIT PARTIES

December 31, 2008

To the Lenders listed on Schedule I hereto

Re: New Sunward Holding B.V. Senior Unsecured Maturity Loan "B" Agreement

Ladies and Gentlemen:

I am General Counsel for CEMEX, S.A.B. de C.V., a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States ("**Mexico**"), (the "**Parent**"), CEMEX México, S.A. de C.V., a *sociedad anónima de capital variable* organized and existing pursuant to the laws of Mexico ("**CEMEX Mexico**," and together with the Parent, the "**Guarantors**"), and New Sunward Holding B.V., a private company with limited liability formed under the laws of The Netherlands, with its corporate seat in Amsterdam, The Netherlands (the " **Borrower,**" and together with the Guarantors, the "**Credit Parties**"). This opinion is rendered to you pursuant to Section 4.01(b) of the Senior Unsecured Maturity Loan "B" Agreement (the "**Loan Agreement**"), dated as of the date hereof, by and among the Borrower, each Guarantor, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto. Capitalized terms used and not otherwise defined herein shall have the respective meanings ascribed thereto in the Loan Agreement.

In connection with the opinions expressed in this letter, I have examined and relied on originals or copies of the Loan Agreement and the form of Maturity "B" Note attached thereto as Exhibit A (the Loan Agreement together with the form of Maturity "B" Notes, the " **Loan Documents**").

In addition, I have examined originals or copies, certified or otherwise identified to my satisfaction, of such document, corporate records, certificates of public officials and other instruments and have conducted such other investigations of fact and law as I have deemed necessary or advisable for purposes of this opinion.

In rendering this opinion, I have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to me as originals, the conformity to original documents of all documents submitted to me as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. In making my examination of executed documents, I have assumed that the parties thereto (other than the Guarantors) had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties (other than the Guarantors) of such documents and the validity and binding effect thereof

on such parties. I have also assumed that each of the parties (other than the Guarantors) to the Loan Documents (as defined herein) has been duly organized and is validly existing in good standing, and has requisite legal status and legal capacity, under the laws of its jurisdiction of organization and that each of such parties has complied and will comply with all aspects of the laws of all relevant jurisdictions (including the laws of its jurisdiction of organization) in connection with the transactions contemplated by, and the performance of its obligations under, the Loan Documents, other than the laws of Mexico.

The opinions set forth below relate only to the laws and regulations of Mexico in force as of the date hereof. Insofar as the opinions expressed below relate to matters that are governed by laws and regulations other than the laws of Mexico, I have assumed the correctness of, and have not made independent examination of such matters. Upon the basis of, and subject to, the foregoing qualifications and the limitations set forth herein, I am of the opinion that:

1. The Parent has been duly incorporated and is validly existing as a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) under the laws of Mexico and CEMEX Mexico has been duly incorporated and is validly existing as a stock corporation with variable capital (*sociedad anónima de capital variable*) under the laws of Mexico; and each Guarantor has all powers and all governmental licenses, permits and other approvals (except for such licenses, permits and approvals the absence of which will not have a Material Adverse Effect) to own its assets and carry on its business as now conducted and as proposed to be conducted.

2. Each Guarantor has full power, authority and legal right to execute and deliver the Transaction Documents and to perform and observe the terms and provisions thereof.

3. The Transaction Documents have been duly authorized, executed and delivered by each Guarantor, and, assuming due execution and delivery thereof by the other parties thereto, constitute valid and binding obligations of each Guarantor, enforceable against each Guarantor in accordance with their terms.

4. The execution, delivery and performance by each Guarantor of the Transaction Documents to which it is a party is permitted under its by-laws *(estatutos sociales)* and has been duly authorized by all necessary action and the execution, delivery and performance by each Guarantor of the Transaction Documents does not and will not (i) violate the provisions of any applicable law, decree or regulation of Mexico (or of any political subdivision thereof) or any order of any court, regulatory body or arbitral tribunal or of their respective *estatutos sociales* or other governing documents of the Guarantors or (ii) result in the breach of, or constitute a default under, or require any consent under, or result in or require the imposition of any lien on any of their respective present or future revenues or properties under, any agreement, instrument or other document to which either Guarantor is a party or by which either Guarantor or any of their respective assets may be bound or affected, except, in the case of (ii), any breach or default the occurrence of which, or any consent the failure of which to be obtained, or any lien the imposition of which, individually or in the aggregate would not have a Material Adverse Effect.

5. No consents, approvals, licenses or authorizations of, or filings or registrations with, any governmental body or regulatory or supervisory authority or agency (including without limitation any foreign exchange approvals or licenses relating to the repayment, purchase, sales or transfer out of Mexico of United States dollars immediately available at the place of payment) are required under applicable law, decree or regulations for the execution, delivery or performance by each Guarantor of the Transaction Documents.

6. The Transaction Documents to which each Guarantor is a party are in proper legal form under the laws of Mexico for the enforcement thereof against the Guarantors, as applicable, in Mexico, and there are no fees that should be paid, and no registration, notarization or other formalities required to be accomplished, for the validity, admissibility and enforceability of such Transaction Documents (other than those requirements listed in qualification (d) below).

7. Each individual named in the incumbency certificate of each Guarantor has sufficient power and authority to execute and deliver each Transaction Document on behalf of such Guarantor and his authority has not been revoked or limited in any manner.

8. Any suit, action or proceeding with respect to the Transaction Documents may be brought against each Guarantor, as applicable, in any court of Mexico specified in such documents.

9. Each Guarantor is subject to commercial law with respect to its obligations under the Transaction Documents, and the execution, delivery and performance by each Guarantor of the Transaction Documents constitute private and commercial acts rather than public or governmental acts; and neither of the Guarantors nor any of their respective properties are entitled to any right of immunity from suit, court jurisdiction, judgment, attachment (whether before or after judgment), set-off or execution with respect to each Guarantor's respective obligations under the Loan Documents.

10. Each Guarantor's submission to the jurisdiction of the United States District Court for the Southern District of New York and any New York State court located in the Borough of Manhattan in New York City (collectively, the "**New York Courts**") and to the jurisdiction of the courts of its corporate domicile in respect of actions initiated against it provided for in Section 13.11 of the Loan Agreement is valid and enforceable under the laws of Mexico.

11. The appointment of the Process Agent as each Guarantor's agent for service of process in New York is irrevocable and has been duly authorized, executed and delivered, and is a valid and binding appointment, and service of process made on the Process Agent at its domicile set forth in the Transaction Document pursuant thereto will constitute personal service upon each Guarantor, as applicable, under Mexican law.

12. The choice of New York law to govern each Transaction Document is, under the laws of Mexico, a valid and effective choice of law.

13. To the best of my knowledge, except for those matters previously disclosed to you in Schedule 5.06 to the Loan Agreement, there is no action, suit or proceeding at law, or in equity or by or before any court, governmental agency or authority or arbitral tribunal now pending or threatened against or affecting either Guarantor or any assets of either Guarantor, which, if adversely determined, would materially and adversely affect the business, consolidated results of operations or consolidated financial condition of such Guarantor, or would impair its ability to perform, or affect the validity or enforceability of, its respective obligations under the Transaction Documents.

14. The obligations of each Guarantor under the Loan Agreement and the Notes rank at least *pari passu* with the claims of all other unsecured creditors (other than those preferred by law).

15. It is not necessary under the laws of Mexico: (i) to enable the Lenders to enforce their respective rights under the Transaction Documents or (ii) by reason of the execution or delivery of the Transaction Document or the enforcement thereof, that the Lenders be licensed, qualified or entitled to carry on business in Mexico.

16. None of the Lenders, the Administrative Agent, the Structuring Agent nor any Joint Lead Arranger will be deemed resident, domiciled or, carrying on business in Mexico solely by reason of the execution, delivery, performance or enforcement of the Loan Agreement or any other Transaction Document.

17. There is no tax, levy, stamp duty, impost deduction, charge or withholding imposed by Mexico or any political subdivision thereof (i) on or by virtue of the execution, delivery, performance, enforcement or admissibility into evidence of any of the Transaction Documents or (ii) on any payment made by either Guarantors pursuant to any of the Transaction Documents, except that a withholding tax will be imposed by Mexico on payments of interest made by a Guarantor to a non-resident of Mexico for tax purposes. The Guarantors are permitted to pay additional sums under Section 3.01 of the Loan Agreement.

18. A final judgment obtained in a New York Court against either Guarantor and such Guarantor's respective assets situated in Mexico would be recognized and enforced by the courts of Mexico, and execution against such assets to satisfy a judgment could be obtained in Mexico, without re-examination of the issues pursuant to Articles 569 and 571 of the Mexican Federal Code of Civil Procedure and Article 1347A of the Mexican Commerce Code, which provide, *inter alia*, that any judgment rendered outside of Mexico may be enforced by Mexican Courts, *provided that*:

(i) such judgment is obtained in compliance with (a) all legal requirements of the jurisdiction of the court rendering such judgment, (b) all legal requirements of the Loan Agreement, and (c) formalities established pursuant to applicable international treaties;

(ii) such judgment is not rendered in a real action (acción real);

(iii) such judgment is final, non-appealable and authenticated by the appropriate governmental authorities, and is strictly for the payment of a certain sum of money, provided that, under Mexican Monetary Law, payments that should be made in Mexico in foreign currency, whether by agreement or upon a judgment of a Mexican Court, may be discharged in Mexican currency at a rate of exchange for such currency prevailing at the time of payment;

(iv) the court rendering such judgment is competent to render such judgment in accordance with applicable rules under international law, and such rules are compatible with the rules adopted under the Mexican Code of Commerce;

(v) service of process was made personally on each Guarantor, as applicable, or on the Process Agent, as applicable;

(vi) such judgment does not contravene Mexican public policy or laws;

(vii) the applicable procedure under the laws of Mexico with respect to the enforcement for foreign judgments (including the issuance of a letter rogatory by the competent authority of such jurisdiction requesting enforcement of such judgment and the certification of such judgment as authentic by the corresponding authorities of such jurisdiction in accordance with the laws thereof) is complied with;

(viii) the courts of such jurisdiction recognize the principles of reciprocity in connection with the enforcement of Mexican judgments in such jurisdiction; and

(ix) the cause of action in connection with which such judgment is rendered is not the same cause of action between the same parties that is pending before a Mexican court.

19. No foreign exchange controls are currently in effect in Mexico and no foreign exchange control authorizations by any governmental authority in Mexico are currently required for the execution, delivery and performance of any Loan Document and the transactions contemplated thereby.

This opinion is subject to the following qualifications:

a. Enforcement of the Transaction Documents may be limited by *concurso mercantil,* bankruptcy, insolvency, reorganization, moratorium and other similar laws or general principles of equity affecting the rights of creditors generally;

b. Labor claims, claims of tax authorities for unpaid taxes, social security quotas, worker's housing fund quotas, retirement fund quotas, as well as claims from secured or privileged creditors, will have priority over claims of the Lenders;

c. In the event that proceedings are brought in Mexico seeking performance of the obligations of the Guarantors in Mexico, pursuant to the Mexican Monetary Law, the Guarantors may discharge their obligations by paying any sums due in a currency other than Mexican currency, in Mexican currency at the rate of exchange prevailing in Mexico on the date when payment is made;

d. In the event that any legal proceedings are brought in the courts of Mexico, a Spanish translation of the documents required in such proceedings prepared by a court-approved translator would have to be approved by the court after the defendant has been given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents;

e. Provisions of the Loan Documents granting discretionary authority to the Lenders cannot be exercised in a manner inconsistent with relevant facts nor defeat any requirements from a competent authority to produce satisfactory evidence as to the basis of any determination; in addition, under Mexican law, each Guarantor will have the right to contest in court any notice or certificate of the Lenders purporting to be conclusive and binding;

f. Claims may become barred under the statutes of limitation, which are not waivable under Mexican law, or may become subject to defenses or set-off or counterclaim;

g. A Mexican court may stay proceedings held in such court if concurrent proceedings are being held elsewhere;

h. Under the laws of Mexico, the obligations of a guarantor are not independent from, and may not exceed, the obligations of the main obligor;

i. With respect to the provisions contained in the Loan Agreement in connection with service of process, it should be noted that service of process by mail does not constitute personal service of process under Mexican law and, since such service is considered to be a basic procedural requirement, if for purposes of proceedings outside Mexico service of process is made by mail, a final judgment based on such process would not be enforced by the courts of Mexico; and

j. We note that an obligation to pay interest on interest may not be enforceable in Mexico.

I have no reason to believe, nor do I believe, that any obligation under the Loan Agreement would violate or contravene Mexican public policy or laws or international treaties binding in Mexico.

I express no opinion in connection with Section 13.14 (Judgment Currency) of the Loan Agreement.

This opinion is furnished only to you in connection with the Transaction Documents and is solely for your benefit. Without my prior written consent, this opinion

may not be used or relied upon by, or assigned to, any other person for any purpose, except that (i) Skadden, Arps, Slate, Meagher and Flom, LLP may rely upon this opinion as to matters of the laws of Mexico in rendering their opinion pursuant to Section 4.02(a) of the Loan Agreement and (ii) any Person who becomes a Lender under Section 13.06(b) of the Loan Agreement after the date hereof may rely on this opinion as if it were originally addressed to such Lender and delivered on the date hereof. We do not assume any obligation to revise or supplement this opinion should any factual matters change or other transactions occur or should any laws or regulations be changed by legislative or regulatory action, judicial decision or otherwise.

Very truly yours,

Ramiro G. Villarreal Morales
General Counsel

Schedule I

List of Lenders

1. HSBC México, S.A., Institución de Banca Múltiple, Grupo Financiero HSBC, acting through its Grand Cayman Branch.
2. Banco Santander, S.A.
3. The Royal Bank of Scotland, PLC.
4. ING Bank N.V., acting through its Curacao Branch.
5. Caja de Ahorros y Monte de Piedad de Madrid - Miami Agency.

HSBC Securities (USA) Inc., as Sole Structuring Agent, Joint Lead Arranger and Joint Bookrunner

Banco Santander, S.A., as Joint Lead Arranger, Joint Bookrunner and Lender

The Royal Bank of Scotland PIc, as Joint Lead Arranger, Joint Bookrunner and Lender

Caja de Madrid - Miami Agency, as Mandated Lead Arranger and Lender

ING Bank, N. V. acting through its Curacao branch, as Mandated Lead Arranger and Lender

HSBC Mexico, S.A., Instituci6n de Banca Multiple, Grupo Financiero HSBC, acting through its Grand Cayman branch, as Lender

ING Capital LLC, as Administrative Agent

Exhibit F

FORM OF OPINION OF DUTCH OPINION TO THE CREDIT PARTIES

To ING Capital LLC, as Administrative Agent and
the Lenders listed on Schedule 1 hereto

Date [ ] December 2008
Our ref. 08A C 101684
Subject New Sunward Holding B.V./ Senior Unsecured Maturity Loan "B" Agreement

Dear Sirs,

We have acted as special Dutch counsel to New Sunward Holding B.V. (the "**Company**") in connection with a Senior Unsecured Maturity Loan "B" Agreement, dated as of the date hereof (the "**Maturity Loan "B" Agreement**"), by and among the Company, as Borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as Guarantors, HSBC Securities (USA) Inc., as Sole Structuring Agent, HSBC Securities (USA) Inc., Banco Santander, S.A. and The Royal Bank of Scotland PLC, as Joint Lead Arrangers and Joint Bookrunners, ING Capital LLC, as Administrative Agent, and the several lenders party thereto and certain other agreements, instruments and documents related to the Maturity Loan "B" Agreement.

For purposes of this opinion, we have examined and relied on the documents listed in Schedule 2 and Schedule 3, which shall form part of this opinion. The documents listed in Schedule 2 are referred to as the "**Documents**" and the documents listed in Schedule 3 as the "**Certificates**."

Unless otherwise defined in this opinion or unless the context otherwise requires, words and expressions defined in the Maturity Loan "B" Agreement shall have the same meanings when used in this opinion. We understand that you require this opinion from us pursuant to Section 4.02 (c) of the Maturity Loan "B" Agreement.

In connection with such examination and in giving this opinion, we have assumed:

(a) the genuineness of the signatures to the Documents and the Certificates, the authenticity and completeness of the Documents and the Certificates submitted to us as originals, the conformity to the original documents of the Documents and the Certificates submitted to us as copies and the authenticity and completeness of these original documents;

(b) the legal capacity (*handelingsbekwaamheid*) of the natural persons acting on behalf of the parties, the due incorporation and valid existence of, the power and authority of, and the due authorisation and execution of the Documents and the power of attorney referred to in Schedule 3 paragraph c) by each of the parties thereto (other than the Company) under any applicable law (other than Dutch law);

(c) the validity, binding effect and enforceability of the Documents and the power of attorney referred to in Schedule 3 under the law of the State of New York;

(d) the accuracy, completeness, validity and binding effect of the Certificates (with the exception of the Articles) and the matters certified or evidenced thereby at the date hereof and any other relevant date; and

(e) for the duration of the Maturity Loan "B" Agreement the Company, under the Maturity Loan "B" Agreement, borrows exclusively from Lenders that qualify as professional market parties (*professionele marktpartijen*) within the meaning of the Financial Markets Supervision Act 2007 (*Wet op het financieel toezicht 2007*) (in reliance upon a letter dated 15 December 2006 issued by the Dutch Central Bank (*De Nederlandsche Bank N.V.*) this requirement can be considered satisfied if the amount borrowed by the Company from each existing or future Lender under the Maturity Loan "B" Agreement individually is not less than EUR 50,000 or its equivalent in any other currency).

This opinion is given only with respect to Dutch law as generally interpreted and applied by the Dutch courts at the date of this opinion. As to matters of fact we have relied on the Certificates and the representations and warranties contained in or made pursuant to the Documents and the Certificates. We do not express an opinion on the completeness or accuracy of the representations or warranties made by the parties to the Documents, matters of fact, matters of foreign law, international law, including, without limitation, the law of the European Union, and tax, anti-trust and competition law, except to the extent that those representations and warranties and matters of fact and law are explicitly covered by the opinions below. No opinion is given on commercial, accounting or non-legal matters or on the ability of the parties to meet their financial or other obligations under the Documents.

Based on and subject to the foregoing, and subject to the qualifications set out below and matters of fact, documents or events not disclosed to us, we express the following opinions:

1. The Company is duly incorporated and is validly existing under Dutch law as a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) and possesses the capacity to sue and to be sued in its own name.

2. The Extract does not reveal that the Company has been dissolved (*ontbonden*) or has been declared bankrupt (*failliet verklaard*) or that it has been granted a (provisional) suspension of payment ((*voorlopige*) *surséance van betaling verleend*) or any order for

the administration of the assets of the Company has been made (*onder bewind gesteld*), which has also been confirmed to us by telephone on the time and date hereof by the Court registry of the Civil Law Section (*sector civiel recht*) of the Amsterdam District Court and the Central Insolvency Register (*Centraal Insolventieregister*) (including the section on EU registration) on www.rechtspraak.nl.

3. The Company has the corporate power and capacity to execute the Documents, to perform its obligations thereunder and to consummate the transactions contemplated therein.

4. The Company has taken all necessary corporate action to authorise the execution of the Documents, the performance of its obligations thereunder and the consummation of the transactions contemplated therein.

5. Each of the Documents has been duly executed under applicable law on behalf of the Company by Humberto Lozano Vargas and/or Jaime Armando Chapa Gonzalez and/or Agustin de Jesus Blanco Garza individually and severally as attorney pursuant to the power of attorney referred to in Schedule 3 paragraph c) and constitutes valid and legally binding obligations of the Company enforceable in accordance with its terms and would be so treated in the Dutch courts. Each of those Documents is in proper form for its enforcement in the Dutch courts.

6. It is not necessary in order to ensure the validity, enforceability or admissibility in evidence of the Documents against the Company in the Dutch courts that those Documents or any other document in connection therewith be filed, registered of recorded with governmental, judicial or public bodies or authorities in The Netherlands or that any other action be taken in The Netherlands.

7. The execution by the Company of the Documents, the performance of its obligations thereunder and the consummation of the transactions contemplated therein do not conflict with or result in a violation of (i) any provision of the Articles of the Company; (ii) any existing provision of, or rule or regulation under, the law of The Netherlands, applicable to companies generally; or (iii) any judgment or order of any court or arbitrator or governmental or regulatory authority in The Netherlands.

8. No authorisations, consents, approvals, licences or exemptions from governmental, judicial or public bodies or authorities in The Netherlands are required for the execution of the Documents by the parties thereto, the performance of their respective obligations thereunder and the consummation of the transactions contemplated therein.

9. The obligations of the Company under the Documents will rank at least *pari passu* with all the other present or future unsecured and unsubordinated obligations of the Company, except for those obligations that have been accorded preferential rights by law and those obligations that are subject to rights of set-off or counterclaim.

10. The choice of the law of the State of New York to govern the Documents is a valid choice of law and the irrevocable submission thereunder by the Company to the non-exclusive jurisdiction of any state or federal court sitting in New York and the waiver of any objection to the venue of a proceeding in any such court, are valid and legally binding on the Company. This choice of law and this submission would be upheld by the Dutch courts.

11. In proceedings taken in The Netherlands, neither the Company nor any of its assets is immune from legal action or proceeding (including, without limitation, suit, attachment prior to judgment, execution or other legal process).

12. A final judgment rendered by a state or federal court sitting in New York would not automatically be enforceable in The Netherlands. However, a final judgment obtained in any such court (the "**NY Judgment**") that is not rendered by default and which is not subject to appeal or other means of contestation and is enforceable in New York with respect to the payment obligations of the Company under the Documents would generally be upheld and regarded by a Dutch court of competent jurisdiction as conclusive evidence when asked to render a judgment in accordance with the NY Judgment, without substantive re-examination or re-litigation of the subject matter thereof, provided, however that the NY Judgment has been rendered by a court of competent jurisdiction, in accordance with the principles of due process, its content and enforcement do not conflict with Dutch public policy and has not been rendered in proceedings of a penal or revenue or other public nature.

13. It is not necessary for the execution, performance or enforcement in The Netherlands of the Documents, that the Lenders be licensed, registered, qualified or otherwise entitled to carry on business in The Netherlands and no Lender is and will be deemed to be resident, domiciled or carrying on business in The Netherlands merely by reason of the execution, performance or enforcement of the Documents, the holding of the Maturity "B" Notes or the making or receipt of any payment under the Documents, including the Maturity "B" Notes.

14. There are no exchange control restrictions in The Netherlands, that would restrict the ability of a Lender to exercise its rights against the Company under the Documents or to remit the proceeds of enforcement thereof out of The Netherlands.

15. A judgment rendered by a Dutch court against the Company with respect to its payment obligations under a Document would, if requested, be expressed in the currency in which this money is payable.

16. No stamp (*zegelrechten*), registration duties or similar taxes or charges are payable under the laws of The Netherlands in connection with the execution, performance or enforcement of the Maturity Loan "B" Agreement or any of the other Documents, other than court fees in respect of proceedings in the Dutch courts.

17. Payments of principal or interest by the Company under the Documents will not be subject to Dutch withholding tax, provided that any such payments do not qualify as and will not be construed as income from shares (*opbrengst van aandelen*) of the Company, income from profit rights (*opbrengst van winstbewijzen*) of the Company and income from loans to the Company entered into under such conditions that they in fact function as equity (*opbrengst van leningen onder zodanige voorwaarden aangegaan dat deze feitelijk functioneren als eigen vermogen*) of the Company, and we have no reason to believe at this time, and do not believe, that any such payments will be considered income from such shares, profit rights and loans.

18. There are no actions, suits or proceedings pending against the Company before any court in The Netherlands and no steps have been, or are being, taken to compulsorily wind-up the Company and no resolution to voluntarily wind-up the Company has been adopted by its respective members.

19. The appointment by the Company of CT Corporation Systems as its agent for the purpose described in Section 13.12 of the Maturity Loan "B" Agreement or any other similar provision in any of the Documents is valid, binding and effective. Service of process effected in the manner set forth in Section 13.12 of the Maturity Loan "B" Agreement or any other similar provision in any of the Documents, assuming its validity under the laws of the State of New York, will be effective, insofar as Dutch law is concerned, to confer valid personal jurisdiction over the Company.

The opinions expressed above are subject to the following qualifications:

(A) Our opinions expressed herein are subject to and limited by applicable bankruptcy, suspension of payment, insolvency, reorganisation and other laws relating to or affecting the rights of creditors or secured creditors generally.

(B) Delivery of documents is not a concept of Dutch law.

(C) The enforcement in The Netherlands of the Documents is subject to the Dutch rules of civil procedure as applied by the Dutch courts.

(D) The availability in the Dutch courts of the remedies of injunction and specific performance is at the discretion of the courts.

(E) The Dutch courts may stay or refer proceedings if concurrent proceedings are being brought elsewhere.

(F) The Dutch courts may render judgments for a monetary amount in foreign currencies, but these foreign monetary amounts may be converted into Euros for enforcement purposes. Foreign currency amounts claimed in a Dutch (provisional) suspension of payment or bankruptcy proceeding will be converted into Euros at the rate prevailing at commencement of that proceeding.

(G) The choice of the law of the State of New York to govern the Documents would be upheld by the Dutch courts, although under the rules of Dutch private international law (and those of the Convention on the Law Applicable to Contractual Relations of 19 June 1980 (the " **Rome Convention**")), (i) effect may be given to the mandatory rules of the law of another country with which the situation has a close connection, if and insofar as, under the law of that other country, those mandatory rules must be applied regardless of the law applicable to the contract (Article 7 of the Rome Convention) or (ii) the application of a term or condition of the Documents or a rule of foreign law applicable thereto under the Rome Convention may be refused if that application is manifestly incompatible with Dutch public policy (Article 16 of the Rome Convention). With the express reservation that we are not qualified to assess the exact meaning and consequences of the respective terms and conditions of the Documents under the law of the State of New York, on the face of those Documents, we are not aware of any condition therein that is likely to give rise to situations (i)where the mandatory rules of Dutch law will be applied by the Dutch courts irrespective of the law otherwise applicable to those Documents or (ii) that appear to be *prima facie* manifestly incompatible with Dutch public policy.

(H) The obligations of the Company under the Documents may be contested by it or by its receiver in bankruptcy on the basis of Section 2:7 of The Netherlands Civil Code, if both (a) the execution and performance of the Documents cannot serve the attainment of the objects as expressed in the articles of association of the Company (having regard to all relevant circumstances such as, whether the execution and performance of the Documents is in the Company's corporate interest (*vennootschappelijk belang*) and whether or not the subsistence of the Company could be jeopardised by the performance of its obligations under the Documents), and (b) the counterparties to the Documents knew or should reasonably have known (without any enquiry) of this fact. However, unless and until the Company has successfully invoked the nullity of the Documents on this basis, the Documents remain valid, binding and enforceable (unless they would be void on other grounds).

As regards (a):

In determining whether the entering into of the transactions contemplated by the Documents is in furtherance of the objects and purposes of a Netherlands company, it is important to consider (x) the text of the objects clause in the articles of association of such Netherlands company, (y) whether such transactions (including the granting of such guarantee or security) are in The Netherlands company's corporate interest (*vennootschappelijk belang*) and to its benefit, and (z) whether or not the subsistence of such Netherlands company is jeopardised by such transactions.

The mere fact that a certain transaction (*rechtshandeling*) is explicitly mentioned in a Netherlands company's objects clause is not sufficient to determine with certainty whether or not the Documents will or will not be *ultra vires.* This is because, following a majority of the authoritative legal writers, the Supreme Court of The Netherlands has rendered judgments that a transaction should in any event be in the corporate interest of a Netherlands company in order to be *intra vires.* As it cannot reasonably be expected of

counterparties to make an assessment of corporate interest in each transaction they enter into with a Dutch company, the test proposed in authoritative literature is that it should have been obvious to the counterparty that a certain transaction was contrary to a company's corporate interest in order for that transaction to be voided on the grounds of *ultra vires.* In case the Documents would ever be challenged by the Company on such grounds, the Lenders should be able to demonstrate that they had *no* indication that the Documents were *not* in the Company's corporate interest.

For purposes of this opinion we have assumed that the Company's execution and performance of the Documents are in its corporate interest.

As regards (b):

Because the criteria for determining whether requirement (a) is met are mostly factual, absolute certainty cannot be provided. Consequently, it is often advisable to achieve protection against *ultra vires* by obtaining and relying on confirmations as to (a) from a Dutch company. This type of comfort would typically consist of a statement or representation from the company's highest executive body, i.e. in this case the managing directors (*bestuur*). The purpose of such a statement or representation is to ensure that the second requirement for a successful *ultra vires* challenge is not met. In the event that a Netherlands company invokes (the defence of) *ultra vires* before a Netherlands court, and the counterparty to the relevant transaction can demonstrate that it relied on statements as to the scope of the company's objects clause or its corporate benefit made by that company's managing director(s) (such as those contained in the Board Resolutions) *prior to entering into the relevant agreements,* this will give rise to the presumption that such counterparty could reasonably have assumed that the transaction was within the company's objects. This presumption will avoid the defence being invoked successfully, provided that it cannot be established that the beneficiary had actual knowledge that could rebut such presumption.

In the present case the managing directors of the Company have all signed the Board Resolutions, which contain certain confirmations. Since according to such statements and representations the execution and performance of the Documents is and will be in its corporate interest and to its benefit (which statements we assume to be correct without any investigation on our part), and do not breach its articles of association and assuming that the Lenders will be entering into the Documents in *bona fide* reliance on the statements made in the Board Resolutions (i.e. had no indication whatsoever that the transactions contemplated thereby were not in the Company's corporate benefit), having given consideration to recent case law and literature, it may reasonably be expected that the execution of the Documents cannot be challenged successfully on the basis of Section 2:7 of The Netherlands Civil Code by the Company or its receiver in bankruptcy.

(I) Our opinions expressed herein are further subject to the effect of general principles of equity, including (without limitation) the concepts or materiality, reasonableness and fairness (*redelijkheid en billijkheid* as known under Netherlands law), imprévision, misrepresentation, good faith and fair dealing and subject to the concepts of error (*dwaling*) and fraud (*bedrog*).

(J) A power of attorney granted by a Dutch company will automatically, *i.e.* by operation of law, terminate upon the bankruptcy of the company or become ineffective, when this company has been granted a (provisional) suspension of payment. To the extent that the appointment of a process agent by the Company constitutes the granting of a power of attorney to that process agent, the service of process on that agent, after the Company has been declared bankrupt or it has been granted a (provisional) suspension of payments, would not be valid and effective, other than to the extent authorised by the public receiver (*curator*) or administrator (*bewindvoerder*), as the case may be.

(K) We have assumed that the Extract fully and accurately reflects the corporate status and position of the Company. It is noted, however, that the Extract may not completely and accurately reflect this status and position insofar as there may be a delay between the taking of a corporate action (such as the issuance of shares, the appointment or removal of a director, a winding-up (*ontbinding*) or (provisional) suspension of payment resolution or the making of a court order, like a winding-up, (provisional) suspension of payment or bankruptcy order) and the filing of the necessary documentation at the Commercial Register and a further delay between that filing and an entry appearing on the file of the relevant party at the Commercial Register.

(L) In issuing this opinion we do not assume any obligation to notify or to inform you (or any other person entitled to rely on this opinion) of any development subsequent to its date that might render its contents untrue or inaccurate in whole or in part at such time.

(M) As to the opinions 7(iii) and 18 we have relied solely upon a management certificate from the Company; we have assumed that the statements made therein are accurate and correct in all respects and we have not investigated any of the matters addressed therein.

This opinion, which is strictly limited to the matters expressly stated herein is given subject to the conditions, including the limitation of liability, set out at the bottom of the front page of this opinion letter and on the basis that this opinion is governed by and to be construed in accordance with Dutch law and that any action, arising out of it, is to be determined by a competent court in Amsterdam which shall have exclusive jurisdiction in relation thereto.

This opinion is given solely for the benefit of the Administrative Agent the Lenders identified on Schedule 1 hereto and their respective legal advisors in this particular matter and the context specified herein. It may not, without our prior written consent, be transmitted or otherwise disclosed to, or relied upon by, others, referred to in other matters or context whatsoever, or be quoted or made public in any way.

Yours faithfully,

Warendorf

SCHEDULE 1

HSBC Securities (USA) Inc., as Sole Structuring Agent

HSBC Securities (USA) Inc., Joint Lead Arranger and Joint Bookrunner

Banco Santander, S.A., Joint Lead Arranger and Joint Bookrunner

The Royal Bank of Scotland PLC, Joint Lead Arranger and Joint Bookrunner

ING Capital LLC, as Administrative Agent

Each of the following, as Lender:

HSBC México, S.A., Institución de Banca Múltiple, Grupo Financiero HSBC, acting through its Grand Cayman branch

Banco Santander, S.A.

The Royal Bank of Scotland, PLC

ING Bank N.V., acting through its Curacao branch

Caja de Ahorros y Monte de Piedad de Madrid - Miami Agency

Each Assignee that becomes a Lender pursuant to Section 13.06(b) of the Dutch Loan "B" Agreement and each of their respective successors or assigns.

SCHEDULE 2

Documents

(a) an execution copy of the Maturity Loan "B" Agreement; and

(b) copies of the Maturity "B" Notes.

SCHEDULE 3

Certificates

(a) a copy of the Articles of Association (*statuten*) of the Company, dated 15 October 2003 which are the currently effective Articles of Association of the Company according to the extract referred to in clause b) below (the " **Articles**");

(b) an official extract (*uittreksel*) dated the date hereof from the Commercial Register (*Handelsregister*) of the Chamber of Commerce in Amsterdam, relating to the registration of the Company under number 34133556 (the " **Extract**");

(c) a copy of the resolutions of the Board of Managing Directors (*Bestuur*) of the Company incorporating the power of attorney, granted by the Company to Humberto Lozano Vargas and/or Jaime Armando Chapa Gonzalez and/or Agustin de Jesus Blanco Garza individually and severally, dated __ December 2008 (the "**Board Resolutions**");

(d) a copy of a managers certificate from the Company dated __ December 2008 certifying the matters set forth therein;

(e) a copy of an officers certificate from the Company dated __ December 2008 certifying the matters set forth therein;

(f) a copy of a managers certificate from the Company dated 19 December 2008 certifying the matters referred to in opinions 7 (iii) and 18 hereof.

*****

EXHIBIT 4.25.4

EXECUTION VERSION

FIRST AMENDMENT TO MATURITY LOAN "B" AGREEMENT

This First Amendment to the Maturity Loan "B" Agreement (as defined below), dated as of January 22, 2009 (this " Amendment No. 1"), is entered into by and among **NEW SUNWARD HOLDING B.V.** (the "Borrower"), a private company with limited liability formed under the laws of The Netherlands, with its corporate seat in Amsterdam, The Netherlands, **CEMEX, S.A.B. de C.V.**, (the "Parent"), a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States, **CEMEX MÉXICO, S.A. de C.V.**, ("CEMEX Mexico" and together with the Parent, the "Guarantors") a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States, the several Lenders party thereto, and **ING CAPITAL LLC**, as administrative agent (the "Administrative Agent").

RECITALS

A. The Borrower, the Guarantors, the several Lenders party thereto, the Administrative Agent, HSBC Securities (USA) Inc., as Sole Structuring Agent, Joint Lead Arranger and Joint Bookrunner, Banco Santander, S.A., as Joint Lead Arranger and Joint Bookrunner, and The Royal Bank of Scotland PLC, as Joint Lead Arranger and Joint Bookrunner, are parties that certain Senior Unsecured Maturity Loan "B" Agreement, dated as of December 31, 2008 (as now or hereafter amended, restated, waived or otherwise modified, the " Maturity Loan "B" Agreement ").

B. The Borrower has requested that the Administrative Agent and the Lenders consent to the following amendment to the Maturity Loan "B" Agreement.

C. This Amendment No. 1 shall constitute a Transaction Document and these Recitals shall be construed as part of this Amendment No. 1.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, and of the Loans and other extensions of credit heretofore, now or hereafter made to, or for the benefit of, the Borrower by the Lenders, the Borrower, the Guarantors, the Administrative Agent, and the Lenders hereby agree as follows:

1. Definitions. Except to the extent otherwise specified herein, capitalized terms used in this Amendment No. 1 shall have the same meanings ascribed to them in the Maturity Loan "B" Agreement.

2. Amendments. Subject to Section 4, the Maturity Loan "B" Agreement is hereby amended as follows:

2.1 The definition for "EBITDA" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""EBITDA" means, for any period, the sum for the Parent and its Subsidiaries, determined on a consolidated basis of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Applicable GAAP, subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued

EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA for any applicable period pursuant to any determination of the Consolidated Net Debt / EBITDA Ratio (but not the Consolidated Fixed Charge Coverage Ratio): (A) (i) if at any time during such applicable period the Parent or any of its Subsidiaries shall have made any Material Disposition, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such applicable period (but when the Material Disposition is by way of lease, income received by the Parent or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such applicable period the Parent or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving *pro forma* effect thereto (including the incurrence or assumption of any Debt) as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any Person that subsequently shall have become a Subsidiary or was merged or consolidated with the Parent or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Disposition or Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Parent or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Disposition or Acquisition had occurred on the first day of such applicable period; and (B) all EBITDA for each applicable period ending on or after December 31, 2008 will be recalculated by multiplying each month's EBITDA by the Ending Exchange Rate and dividing the amount obtained thereto by the exchange rate used by the Parent in preparation of its monthly financial statements in accordance with Mexican FRS to convert U.S.$ into Mexican pesos (such recalculated EBITDA being the " Recalculated EBITDA"), provided, that, the Required Lenders shall have the option, with respect to any Reference Period ending after December 31, 2009, to discontinue the incorporation of Recalculated EBITDA into the Consolidated Net Debt/EBITDA Ratio (the "Discontinue Option"). The Required Lenders may exercise the Discontinue Option upon notice to the Administrative Agent, who shall, acting upon the instructions of the Required Lenders, notify the Parent of such exercise in writing (the " Notice of Discontinuance") at least thirty (30) days prior to the end of such Reference Period. Subject to the foregoing notice requirements, such Discontinue Option shall be effective for each Reference Period ending after the date of such Notice of Discontinuance to the Parent as set forth herein."

2.2 The definition for "Ending Exchange Rate" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Ending Exchange Rate" means the exchange rate at the end of a Reference Period for converting U.S.$ into Mexican pesos, used by the Parent and its auditors in preparation of the Parent's financial statements in accordance with Mexican FRS."

2.3 The definition of "U.S.$/Euro EBITDA" in Section 1.01 (" Certain Definitions") shall be deleted in its entirety.

3. Representations and Warranties. The Borrower and each of the other Credit Parties hereby represent and warrant to the Administrative Agent and the Lenders that:

3.1 The representations and warranties of the Borrower contained in the Maturity Loan "B" Agreement are true and correct as of the date of this Amendment No. 1.

3.2 The representations and warranties of the Guarantors contained in the Maturity Loan "B" Agreement are true and correct as of the date of this Amendment No. 1.

3.3 The execution, delivery and performance by the Borrower and each of the other Credit Parties of this Amendment No. 1 has been duly authorized by all necessary corporate action, and this Amendment No. 1 constitutes the legal, valid and binding obligation of the Borrower and each of the other Credit Parties enforceable against the Borrower and each of the other Credit Parties in accordance with its terms, except as enforceability may be limited by applicable *concurso mercantil,* bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally or general equity principles.

3.4 The execution, delivery and performance of this Amendment No. 1 does not, and will not, contravene or conflict with any provision of (i) any Requirement of Law, (ii) any judgment, decree or order, or (iii) the certificate or articles of incorporation or by-laws or other constituent documents of the Borrower and the Credit Parties, and does not, and will not, contravene or conflict with, or cause any Lien to arise under, any provision of any Contractual Obligation applicable to the Borrower and the Credit Parties.

3.5 No Default or Event of Default exists under the Maturity Loan "B" Agreement or any other Transaction Document or will exist after or be triggered by the execution, delivery and performance of this Amendment No. 1. In addition, the Borrower and each of the other Credit Parties hereby represent, warrant and reaffirm that the Maturity Loan "B" Agreement, the Maturity "B" Notes and each of the other Transaction Documents remain in full force and effect.

4. Conditions Precedent to Effectiveness. The effectiveness of the amendments set forth in Section 2 hereof are in each instance subject to the satisfaction of each of the following conditions precedent (the date on which all such conditions precedent are satisfied or waived being the " Amendment No. 1 Effective Date"):

4.1 Amendment No. 1. This Amendment No. 1 shall have been duly authorized, executed and delivered by each of the Borrower, the Guarantors and the Required Lenders, and acknowledged by the Administrative Agent (which shall be a purely ministerial action).

4.2 No Default. After giving effect to this Amendment No. 1, no Default or Event of Default shall have occurred and be continuing, or would result from the execution or effectiveness of this Amendment No. 1.

4.3 No Material Adverse Effect. No Material Adverse Effect has occurred since December 31, 2007 (excluding the financial condition and events previously disclosed in (i) the Borrower's filings made with the SEC or the *Bolsa Mexicana de Valores, S.A.B de C.V.* after December 31, 2007; or (ii) in the Borrower's unaudited financial statements for each of the first three fiscal periods of 2008).

4.4 Solvency. The Borrower and each Guarantor is, and after giving effect to each of the transactions contemplated by this Amendment No. 1 and the Transaction Documents will be, Solvent.

4.5 Miscellaneous. The Administrative Agent and the Lenders shall have received such other agreements, instruments and documents as the Administrative Agent or the Lenders may reasonably request.

4.6 Other Facilities. This Amendment shall not be effective until the debt obligations set forth on Exhibit A attached hereto have been amended in form and substance reasonably satisfactory to the Lenders and the Borrower shall have notified the Administrative Agent of such modification in writing.

5. Reference to and Effect Upon the Maturity Loan "B" Agreement and other Transaction Documents .

5.1 Full Force and Effect. Except as specifically provided herein, the Maturity Loan "B" Agreement, the Maturity "B" Notes and each other Transaction Document shall remain in full force and effect and each Maturity "B" Note, Transaction Document, and the Maturity Loan "B" Agreement is hereby ratified and confirmed by the Borrower.

5.2 No Waiver. The execution, delivery and effect of this Amendment No. 1 shall be limited precisely as written and shall not be deemed to (i) be a consent to any waiver of any term or condition, or to any amendment or modification of any term or condition (except as specifically provided herein) of the Maturity Loan "B" Agreement, the Maturity "B" Notes or any other Transaction Document, (ii) prejudice any right, power or remedy which the Administrative Agent or any Lender now has or may have in the future under or in connection with the Maturity Loan "B" Agreement or any other Transaction Document or (iii) constitute a novation of any of the obligations under the Maturity Loan "B" Agreement, the Maturity "B" Notes, and the other Transaction Documents.

5.3 Certain Terms. Each reference in the Maturity Loan "B" Agreement to "this Agreement", "hereunder", "hereof", "herein" or any other word or words of similar import shall mean and be a reference to the Maturity Loan "B" Agreement as amended hereby, and each reference in any other Transaction Document to the Maturity Loan "B" Agreement or any word or words of similar import shall be and mean a reference to the Maturity Loan "B" Agreement as amended hereby.

6. Counterparts. This Amendment No. 1 may be executed in any number of counterparts, each of which when so executed shall be deemed an original but all such counterparts shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment No. 1 by telecopier shall be as effective as delivery of a manually executed counterpart signature page to this Amendment No. 1.

7. Costs and Expenses. As provided in the Maturity Loan "B" Agreement, the Borrower shall pay the reasonable fees, costs and expenses incurred by the Administrative Agent in connection with the preparation, execution and delivery of this Amendment No. 1 (including, without limitation, attorneys' fees).

8. GOVERNING LAW. THIS AMENDMENT NO. 1 SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK.

9. Headings. Section headings in this Amendment No. 1 are included herein for convenience of reference only and shall not constitute a part of this Amendment No. 1 for any other purpose.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

NEW SUNWARD HOLDING B.V.,
as Borrower

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-In-Fact

[Signature Page Amendment No. 1 to Maturity "B" Loan – New Sunward Holding]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

CEMEX, S.A.B. DE C.V.,
as a Guarantor

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-In-Fact

[Signature Page Amendment No. 1 to Maturity "B" Loan – Cemex, S.A.B. de C.V.]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

CEMEX MÉXICO, S.A. DE C.V.,
as a Guarantor

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-In-Fact

[Signature Page Amendment No. 1 to Maturity "B" Loan – Cemex Mexico]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

ING CAPITAL LLC,
as Administrative Agent

By /s/ Vicente M. León
Name: Vicente M. León
Title: Director

[Signature Page Amendment No. 1 to Maturity "B" Loan – ING Capital]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

BANCO SANTANDER S.A.,
as a Lender

By /s/ Javier Visedo
Name: Javier Visedo
Title: Executive Director

By /s/ Juan de la Hera
Name: Juan de la Hera
Title: Associate

[Signature Page Amendment No. 1 to Maturity "B" Loan – Banco Santander]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

THE ROYAL BANK OF SCOTLAND PLC,
as a Lender

By /s/ [illegible]
Name: [illegible]
Title: MD

By /s/ [illegible]
Name: [illegible]
Title: Director

[Signature Page Amendment No. 1 to Maturity "B" Loan – RBS]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

CAJA DE AHORROS Y MONTE DE
PIEDAD DE MADRID MIAMI AGENCY,
as a Lender

By /s/ Jose Cueto
Name: Jose Cueto
Title: Senior VP & Deputy General Manager

By /s/ Jesus Miramon
Name: Jesus Miramon
Title: Deputy General Manager

[Signature Page Amendment No. 1 to Maturity "B" Loan – Caja Madrid]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

ING BANK, N.V., ACTING THROUGH ITS CURACAO BRANCH,
as a Lender

By /s/ H.F.J. (Freddy) ten Holt
Name: H.F.J. (Freddy) ten Holt
Title: Chief Financial Officer

By /s/ A.C. Maduro
Name: A.C. Maduro
Title: Risk Manager

[Signature Page Amendment No. 1 to Maturity "B" Loan – ING Bank N.V.]

EXHIBIT A

(1) Amended and Restated Credit Agreement, dated as of June 6, 2005, by and among CEMEX S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V. and Empresas Tolteca de México S.A. de C.V., as guarantors, Barclays Bank PLC, New York Branch, as issuing bank and documentation agent, ING Bank N.V., as issuing bank, the several lenders party thereto, and Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint bookrunner, Citigroup Global Markets Inc., as joint bookrunner and syndication agent, and ING Capital LLC, as joint bookrunner and administrative agent, for an aggregate principal amount of U.S.$700,000,000, as amended by Amendment No. 1 thereto, dated as of June 21, 2006, the Amendment and Waiver Agreement, dated as of December 1, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of December 19, 2008.

(2) Credit Agreement, dated as of May 31, 2005, by and among CEMEX S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V. and Empresas Tolteca de México S.A. de C.V., as guarantors, the several lenders party thereto, Barclays Bank PLC, New York Branch, as administrative agent, Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner, for an aggregate principal amount of U.S.$1,200,000,000, as amended by Amendment No. 1 thereto, dated as of June 19, 2006, the Amendment and Waiver Agreement, dated as of November 30, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Limited Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of December 19, 2008.

(3) Amended and Restated Facilities Agreement, dated as of December 19, 2008, by and among New Sunward Holding B.V., as borrower, CEMEX S.A.B. de C.V., CEMEX México S.A. de C.V. and Empresas Tolteca de México S.A. de C.V., as original guarantors, Banco Bilbao Vizcaya Argentaria, S.A., BNP Paribas and Citigroup Global Markets, Inc., as arrangers, and Citibank, N.A. as agent and on behalf of the finance parties, for an aggregate principal amount of U.S.$700,000,000.

(4) Senior Unsecured Maturity Loan "A" Agreement, dated as of December 31, 2008, by and among NSH, as borrower, CEMEX S.A.B. de C.V., and CEMEX México S.A. de C.V., as guarantors, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto, for an aggregate principal amount of U.S.$525,000,000.

(5) Credit Agreement, dated as of June 25, 2008, among CEMEX S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V., as guarantor, and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch, as lender, for an aggregate principal amount of U.S.$500,000,000, as amended by the First Amendment to the Credit Agreement, dated as of December 19, 2008.

EXHIBIT 4.27.1

EXECUTION VERSION

FIRST AMENDMENT TO CREDIT AGREEMENT

This First Amendment to the Credit Agreement (as defined below), dated as of December 18, 2008 (this " Amendment No. 1"), is entered into by and among **CEMEX, S.A.B de C.V.**, a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States (the "Borrower"), **CEMEX MÉXICO, S.A. de C.V.**, a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States (the "Guarantor") and **BANCO BILBAO VIZCAYA ARGENTARIA, S.A.** acting through its NEW YORK BRANCH (the "Lender")

RECITALS

A. The Borrower, the Guarantor, and the Lender, are parties to that certain credit agreement, dated as of June 25, 2008, in the amount of U.S.$500,000,000 (as now or hereafter amended, restated or otherwise modified, the " Credit Agreement").

B. The Borrower has requested that the Lender consent to the following amendment to the Credit Agreement.

C. This Amendment No. 1 shall constitute a Transaction Document and these Recitals shall be construed as part of this Amendment No. 1.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, and of the Loan and other extensions of credit heretofore, now or hereafter made to, or for the benefit of, the Borrower by the Lender, the Borrower and the Lender hereby agree as follows:

1. Definitions. Except to the extent otherwise specified herein, capitalized terms used in this Amendment No. 1 shall have the same meanings ascribed to them in the Credit Agreement.

2. Amendments. Subject to Section 5, the Credit Agreement is hereby amended as follows:

2.1 The definition for "Acquisition" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""'Acquisition" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if upon the completion of such transaction or transactions, the Borrower or any Subsidiary thereof has acquired an interest in assets comprising all or substantially all of an operating unit, division or line of business or in any Person who is deemed to be a Subsidiary under this Agreement and was not a Subsidiary prior thereto."

2.2 The definition for "Business Day" in Section 1.01 (' Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""'Business Day" means any day other than a Saturday or Sunday or other day on which commercial banks in New York City or Mexico City are authorized or required by law to close and, if such day relates to any LIBOR Loan, means any such day on which dealings in Dollar deposits are conducted by and between banks in the London interbank market."

2.3 The definition for "Consolidated Net Debt" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Consolidated Net Debt" means, at any date, the sum (without duplication) of (a) the aggregate amount of all Debt of the Borrower and its Subsidiaries at such date, plus (b) to the extent not included in Debt, the aggregate amount of all derivative financing in the form of equity swaps outstanding at such date (except to the extent such exposure is cash collateralized) minus (c) all Temporary Investments (for the avoidance of doubt, net of any amounts pledged as cash collateral) of the Borrower and its Subsidiaries at such date."

2.4 The definition for "Consolidated Net Debt / EBITDA Ratio" in Section 1.01 (" Certain Definitions") shall be deleted and replaced in its entirety with the following language:

"Consolidated Net Debt / EBITDA Ratio" means, on any date of determination, the ratio of (a) Consolidated Net Debt on such date to (b) EBITDA for the one year period ending on such date (subject to adjustment as set forth in the definition of "EBITDA").

2.5 The definition for "Debt" in Section 1.01 ("Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Debt" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee under Capital Leases, (v) all Debt of others secured by a Lien on any asset of such Person, up to the value of such asset, as recorded in such Person's most recent balance sheet, (vi) all obligations of such Person with respect to product invoices incurred in connection with export financing, (vii) all obligations of such Person under repurchase agreements for the stock issued by such Person or another Person and (viii) all Guarantees of such Person in respect of any of the foregoing. For the avoidance of doubt, Debt does not include Derivatives or Qualified Receivables Transactions. With respect to the Borrower and its Subsidiaries, the aggregate amount of Debt outstanding shall be adjusted by the Value of Debt Currency Derivatives solely for the purposes of calculating the Consolidated Net Debt / EBITDA Ratio. If the Value of Debt Currency Derivatives is a positive mark-to-market valuation for the Borrower and its Subsidiaries, then Debt shall decrease accordingly, and if the Value of Debt Currency Derivatives is a negative mark-to-market valuation for the Borrower and its Subsidiaries, then Debt shall increase by the absolute value thereof."

2.6 The definition for "EBITDA" in Section 1.01 ("Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""EBITDA" means, for any period, the sum for the Borrower and its Subsidiaries, determined on a consolidated basis of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Mexican FRS, subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA for any

applicable period pursuant to any determination of the Consolidated Net Debt / EBITDA Ratio (but not the Consolidated Fixed Charge Coverage Ratio): (A) (i) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Disposition, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such applicable period (but when the Material Disposition is by way of lease, income received by the Borrower or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving *pro forma* effect thereto (including the incurrence or assumption of any Debt) as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any Person that subsequently shall have become a Subsidiary or was merged or consolidated with the Borrower or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Disposition or Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Borrower or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Disposition or Acquisition had occurred on the first day of such applicable period; and (B) all U.S.$/Euro EBITDA for each applicable period ending on or after December 31, 2008 will be recalculated and converted into Mexican pesos by applying the Ending Exchange Rate to each month's U.S.$/Euro EBITDA amount (such recalculated EBITDA being the "Recalculated EBITDA"), provided, that, the Lender shall have the option, with respect to any Reference Period ending after December 31, 2009, to discontinue the incorporation of Recalculated EBITDA into the Consolidated Net Debt / EBITDA Ratio (the "Discontinue Option"). The Lender may exercise the Discontinue Option upon notice the Borrower of such exercise in writing (the "Notice of Discontinuance") at least thirty (30) days prior to the end of such Reference Period. Subject to the foregoing notice requirements, such Discontinue Option shall be effective for each Reference Period ending after the date of such Notice of Discontinuance to the Borrower as set forth herein."

2.7 The definition for "Mexican FRS" in Section 1.01 ("Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Mexican FRS" means Mexican Financial Reporting Standards (*Normas de Información Financiera*) as in effect from time to time and consistent with those used in the preparation of the most recent audited financial statements referred to in Section 7.01; provided, however, that for purposes of Section 8.01, Mexican FRS means Mexican Financial Reporting Standards as in effect on December 31, 2008. In the event that any change in Mexican FRS shall occur, or the Borrower shall decide to or be required to change to IFRS, and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, then the Borrower and the Lender agree to enter into negotiations in order to amend such provisions of this Agreement so as to equitably reflect such change in Mexican FRS with the desired result that the criteria for evaluating the Borrower's financial condition shall be the same after such change as if such change had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrower and the Lender, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such change in Mexican FRS had not occurred."

2.8 The definition for "Value of Debt Currency Derivatives" in Section 1.01 ("Certain Definitions") shall be amended to include the following sentence at the end thereof;

"For the avoidance of doubt, Value of Debt Currency Derivatives is net of any amounts pledged as cash collateral."

2.9 The following definitions shall be added to Section 1.01 (" Certain Definitions") in alphabetical order:

""'Acquired Debt" means, with respect to any specified Person, Debt of any other Person existing at the time such Person becomes a Subsidiary of such specified Person or assumed in connection with the acquisition of assets from such Person."

""'Amendment No. 1" means the First Amendment to the Credit Agreement, dated as of [•], by and among Cemex S.A.B. de C.V., as Borrower, Cemex México S.A. de C.V. as Guarantor, and Banco Bilbao Vizcaya Argentaria, S.A., as Lender"

""'Amendment No. 1 Effective Date" has the meaning specified in Section 5 of Amendment No. 1."

""'Capital Expenditure" means, for any period, (a) the additions to property, plant and equipment and other capital expenditures of the Borrower and its Subsidiaries that are (or should be) set forth in a consolidated statement of cash flows of the Borrower for such period prepared in accordance with Mexican FRS and (b) any Capital Leases incurred by the Borrower and its Subsidiaries during such period."

""'Discontinue Option" has the meaning set forth in the definition of "EBITDA" in Section 1.01 of this Agreement."

""'Discontinued EBITDA" means, for any period, the sum for Discontinued Operations of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Mexican FRS consistently applied for such period."

""'Discontinued Operations" means operations that are accounted for as discontinued operations pursuant to Mexican FRS for which the Disposition of such assets has not yet occurred."

""'Dutch Loan Agreement" means each of the Senior Unsecured Dutch Loan "A" Agreement and the Senior Unsecured Dutch Loan "B" Agreement, dated as of June 2, 2008 by and among New Sunward Holding B.V., as borrower, CEMEX, S.A.B de C.V. and CEMEX México, S.A. de C.V., as guarantors, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A. and The Royal Bank of Scotland PLC, as joint lead arrangers and joint bookrunners, ING Capital LLC, as administrative agent and ING Bank N.V. acting through its Curaçao Branch and Caja de Madrid – Miami Agency as mandated lead arrangers."

""'Ending Exchange Rate" means the exchange rate at the end of a Reference Period for U.S.$ or Euros, as the case may be, corresponding to any U.S.$/Euro EBITDA, in each case as used by the Borrower and its auditors in preparation of the Borrower's financial statements in accordance with Mexican FRS."

""'Euro" means the single currency of Participating Member States."

""'Guarantee" means, as applied to any Debt of another Person, (i) a guarantee, direct or indirect, in any manner, of any part or all of such Debt and (ii) any direct or indirect obligation, contingent or otherwise, of a Person guaranteeing or having the effect of guaranteeing the Debt of any other Person in any manner. (and "Guaranteed" and "Guaranteeing" shall have meanings that correspond to the foregoing)."

""'IFRS" means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements."

""Incur" means, with respect to any Debt of any Person, to create, issue, incur (by conversion, exchange or otherwise), assume, Guarantee or otherwise become liable in respect of such Debt or the recording, as required pursuant to Mexican FRS or otherwise, of any such Debt on the balance sheet of such Person. Debt otherwise Incurred by a Person before it becomes a Subsidiary of the Borrower shall be deemed to be Incurred at the time at which such Person becomes a Subsidiary of the Borrower. "Incurrence," "Incurred," "Incurrable" and "Incurring" shall have meanings that correspond to the foregoing."

""Investment" by the Borrower or its Subsidiaries means, any direct or indirect capital contribution (by means of any transfer of cash) to another Person which is not the Borrower or its Subsidiaries, not constituting an Acquisition."

""Notice of Discontinuance" has the meaning set forth in the definition of "EBITDA" in Section 1.01 of this Agreement."

""Ordinary Course Loans" means a loan or advance: (i) made by the Borrower or any of its Subsidiaries to a supplier, vendor, customer or other similar counterparty; (ii) which is due and payable not more than eighteen (18) months after being made (and where the Debt being Incurred to fund such loan or advance has a weighted average life to maturity that is greater than such loan or advance); (iii) made on terms and under circumstances consistent with past practices of the Borrower or such Subsidiary; and (iv) the aggregate principal amount of which, when added to all other such loans and advances, does not exceed at any time U.S.$75,000,000 (or the equivalent in other currencies)."

""Participating Member State" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union."

""Permitted Debt" means, any Debt:

(a) the net proceeds of which are applied to repay, prepay or discharge the Loan or other Debt existing as at the date of such Incurrence and associated costs and expenses, so long as either: (i) the weighted average life to maturity of such new Debt is not less than the remaining weighted average life to maturity of the Debt being repaid, prepaid or otherwise discharged and the proceeds of such new Debt are applied towards such repayment, prepayment or other discharge within fifteen (15) days of such Incurrence; or (ii) such new Debt is incurred under a liquidity facility or facilities in an aggregate principal amount not exceeding U.S.$600,000,000 outstanding at any time, provided, that, the proceeds of such new Debt are used to repay, prepay or otherwise discharge Debt outstanding on the Amendment No. 1 Effective Date (including any such Debt that has been refinanced) within fifteen (15) days of the Incurrence of such new Debt;

(b) the net proceeds of which are applied to pay obligations of the Borrower and/or its Subsidiaries arising under written agreements existing on the Amendment No. 1 Effective Date, excluding obligations in respect of Capital Expenditures, Restricted Payments and Investments;

(c) the net proceeds of which are applied for Capital Expenditures (i)(A) made from January 1, 2009 until December 31, 2009, in an aggregate amount per annum not to exceed U.S.$60,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing and (B) U.S.$40,000,000 (or the equivalent in other currencies) in all other cases; and (ii)(A) made from January 1, 2010 until

December 31, 2010, and from January 1, 2011 until the Maturity Date, in each case in an aggregate amount per annum not to exceed U.S.$40,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing and (B) U.S.$60,000,000 (or the equivalent in other currencies) in all other cases; provided, that, any Debt Incurred pursuant to this clause has a weighted average life to maturity that is greater than the remaining weighted average life to maturity of the Debt under this Agreement;

(d) the net proceeds of which are applied to satisfy obligations of the Borrower or any of its Subsidiaries arising in the ordinary course of business of such Person, excluding obligations in respect of (i) Capital Expenditures, (ii) Restricted Payments, (iii) Acquisitions, (iv) Investments, and (v) loans and advances made or to be made by such Person, other than Ordinary Course Loans;

(e) owed to the Borrower or any of its consolidated Subsidiaries;

(f) which has become Debt solely due to a change in Mexican FRS;

(g) to the extent resulting from the conversion of a Loan into a Maturity Loan (as defined in each Dutch Loan Agreement) pursuant to a Dutch Loan Agreement; or

(h) to the extent resulting from the closing of, or funding under, a facilities agreement with CEMEX España, S.A. as Borrower, CEMEX Australia Holdings Pty Limited and CEMEX, Inc. as Original Guarantors, Banco Santander, S.A. and The Royal Bank of Scotland plc as Documentation Agents, and The Royal Bank of Scotland plc as Facility Agent, in an aggregate amount of up to U.S.$2,000,000,000 (or the equivalent thereof in other currencies) so long as the net proceeds of which are applied to repay, prepay or discharge existing bilateral debt; or

(i) any Guarantee Incurred by the Borrower or any of its Subsidiaries for any of the Debt referred to in paragraphs (a) to (h) above."

""Recalculated EBITDA" has the meaning set forth in the definition of "EBITDA" in Section 1.01 of this Agreement."

""Reference Period" means any period of four consecutive fiscal quarters."

""Restricted Payment" means any cash dividend or other cash distribution with respect to any Capital Stock of the Borrower, or any cash payment, including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Capital Stock, or on account of any return of capital to the Borrower's stockholders."

""SEC" means the U.S. Securities and Exchange Commission."

""Solvent" means, with respect to any Person, that such Person (a) owns and will own assets the fair saleable value of which are (i) greater than the total amount of its debts and liabilities, subordinated, contingent or otherwise; and (ii) greater than the amount that will be required to pay the probable liabilities of its then existing debts, as such debts become absolute and matured and considering all financing alternatives and potential asset sales reasonably available to it; (b) has capital that is not unreasonably small in relation to its business as presently conducted and as proposed to be conducted following the Amendment No. 1 Effective Date; (c) does not intend to incur and does not believe that it

will incur debts beyond its ability to pay such debts as they become due; and (d) is not, or is not deemed to be, in general default of its obligations pursuant to the Mexican *Ley de Concursos Mercantiles*. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability. For the purposes of this definition "fair saleable value" means the aggregate amount of net consideration (giving effect to reasonable and customary costs of sale and taxes) that could be expected to be realized if the aggregate assets of the applicable entity are sold with reasonable promptness in an arm's length transaction under present conditions for the sale of assets of comparable business enterprises."

""U.S.$/Euro EBITDA" means any EBITDA of a Subsidiary of the Borrower for a particular Reference Period which is generated in U.S.$ or Euros."

2.10 Section 1.03 ("Accounting Terms and Determinations") shall be amended by the addition of "(a)" after the heading " Accounting Terms and Determinations." and the addition of a new Paragraph (b) to read as follows:

"(b) Calculations with respect to the Consolidated Net Debt/EBITDA Ratio and the Adjusted Consolidated Net Tangible Assets and the defined terms used in such calculations, when made in relation to dates other than the last day of a fiscal period, shall be made by the Borrower acting in good faith by reference to (i) the most recently available financial statements of the Borrower and its Subsidiaries (including, to the extent available, unaudited monthly financial information) as of such date and (ii) events, conditions and circumstances occurring or existing subsequent to such financial statements."

2.11 A new Section 5.21 ("Solvency") shall be added to the Credit Agreement to read as follows:

"5.21 Solvency. Each of the Borrower and the Guarantor is, and after giving effect to the Loans and each of the transactions contemplated by this Agreement and the Transaction Documents will be, Solvent."

2.12 Paragraph (a) of Section 8.01 ("Financial Conditions") shall be deleted and replaced in its entirety with the following language:

"(a) The Borrower shall not permit the Consolidated Net Debt / EBITDA Ratio at any time to exceed:

(i) 4.50 to 1.0 during the Reference Period ending on each of December 31, 2008 and March 31, 2009;

(ii) 4.75 to 1.0 during the Reference Period ending on June 30, 2009;

(iii) 4.50 to 1.0 during the Reference Period ending on each of September 30, 2009 and December 31, 2009;

(iv) 4.25 to 1.0 during the Reference Period ending on each of March 31, 2010 and June 30, 2010;

(v) 4.00 to 1.0 during the Reference Period ending on September 30, 2010;

(vi) 3.75 to 1.0 during the Reference Period ending on each of December 31, 2010 and March 31, 2011; and

(vii) 3.75 to 1.0 during the Reference Period ending on the Maturity Date."

2.13 Paragraph (c) of Section 8.03 ("Consolidations and Mergers") shall be deleted and replaced in its entirety with the following language:

"(c) immediately after giving effect to such transaction, including for purposes of this clause (c) the substitution of any Successor to the Borrower for the Borrower or the substitution of any Successor to a Guarantor for such Guarantor and treating any Debt or Lien incurred by the Borrower or any Successor to the Borrower, or by a Guarantor of the Borrower or any Successor to such Guarantor, as a result of such transactions as having been incurred at the time of such transaction (and Incurred for the purposes of Section 8.07), no Default or Event of Default shall have occurred and be continuing; and"

2.14 Section 8.04 ("Sales of Assets, Etc.") shall be deleted and replaced in its entirety with the following language:

"8.04 Sales of Assets, Etc. The Borrower will not, and will not permit any of its Material Subsidiaries to, sell, lease or otherwise dispose of any of its assets (including the Capital Stock of any Subsidiary), other than (a) inventory, trade receivables and assets surplus to the needs of the business of the Borrower or any Subsidiary sold in the ordinary course of business, (b) assets not used, usable or held for use in connection with cement operations and related operations, and (c) any "margin stock" within the meaning of Regulation U acquired by the Borrower with the proceeds of the Loans through a Tender Offer, unless the proceeds of the sale of such assets are retained by the Borrower or such Subsidiary, as the case may be, and, as promptly as practicable after such sale (but in any event within one hundred and eighty (180) days of such sale), the proceeds are applied to (i) expenditures for property, plant and equipment usable in the cement industry or related industries; (ii) the repayment of senior Debt of the Borrower or any of its Subsidiaries, whether secured or unsecured; or (iii) investments in companies engaged in the cement industry or related industries; provided, however, that the net proceeds from Qualified Receivables Transactions to the extent exceeding, in the aggregate, the aggregate U.S.$ amount set forth in Schedule 8.04 attached hereto shall be applied to the repayment of senior Debt of the Borrower or any of its Subsidiaries, whether secured or unsecured; and provided, that, nothing in this Section 8.04 shall prevent any sale, lease or other disposal of assets from any Subsidiary to another Subsidiary."

2.15 A new Section 8.07 ("Limitation on Indebtedness") shall be added to the Credit Agreement to read as follows:

"8.07 Limitation on Indebtedness. The Borrower shall not, and shall not permit any of its Subsidiaries to, Incur any Debt (including Acquired Debt), provided, that, the Borrower or any Subsidiary may Incur Debt if on the date of such Incurrence and after giving effect thereto on a *pro forma* basis (as if such Debt had been Incurred on the first day of the relevant Reference Period): (a) the Consolidated Net Debt / EBITDA Ratio is less than 3.5 to 1.0 and (b) no Event of Default has occurred and is continuing or would result from the Incurrence of such Debt. Notwithstanding the foregoing, the Borrower and its Subsidiaries may Incur Permitted Debt.

(a) Upon each Incurrence of Debt, the Borrower or Subsidiary, as the case may be, may designate (and later re-designate) in its sole discretion pursuant to which category of Permitted Debt any Debt is being Incurred and may subdivide an amount of Debt and

designate (and later redesignate) more than one such category pursuant to which such amount of Debt is being Incurred and such Permitted Debt shall not be deemed to have been Incurred or outstanding under any other category of Permitted Debt. For the avoidance of doubt, the inability of the Borrower or its Subsidiary to Incur Debt under one category shall not limit the ability of the Borrower or its Subsidiary to Incur Debt under another category.

(b) Accrual of interest shall not be deemed to be an Incurrence of Debt for purposes of this Section 8.07. Notwithstanding any other provision of this covenant, the maximum amount of Debt that the Borrower and its Subsidiaries may Incur pursuant to this covenant shall not be deemed to be exceeded, with respect to any outstanding Debt, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Debt Incurred to refinance other Debt, if Incurred in a different currency from the Debt being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Debt is denominated that is in effect on the date of such refinancing.

(c) For purposes of determining compliance with any U.S. Dollar-denominated restriction on the Incurrence of Debt, the U.S. Dollar equivalent principal amount of Debt denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Debt was Incurred."

2.16 Paragraph (e) ("Defaults under Other Agreements") of Section 10.01 ("Events of Default") shall be deleted and replaced in its entirety with the following language:

"(e) Defaults under Other Agreements. The occurrence of a default or event of default under any indenture, agreement or instrument relating to any Material Debt of the Borrower or any of its Subsidiaries, and such default or event of default results in the acceleration of the maturity of any principal amount of such Material Debt prior to the date on which it would otherwise become due and payable; or any principal amount of Material Debt of the Borrower or any of its Subsidiaries shall not be paid upon the scheduled maturity thereof (after giving effect to any applicable grace period); or"

2.17 Section 10.02 ("Remedies") shall be amended by the deletion of the period at the end thereof and the insertion of the following language:

"; provided, however, that in the case of any Event of Default specified in Section 10.01(f) or (g), without notice or any other act by the Lender, the Commitment shall be automatically terminated and the Loan (together with accrued interest thereon) and all other Obligations of the Borrower hereunder shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower."

2.18 A new Section 10.04 ("Remedies Independent") shall be added to the Credit Agreement to read as follows:

"10.05 Remedies Independent. Any debt owing to a Lender under the Transaction Documents shall be a separate and independent debt. Except as otherwise stated in the Transaction Documents, (i) any right of a Lender under the Transaction Documents shall be a separate and independent right and (ii) a Lender may separately enforce its rights under the Transaction Documents."

2.19 Paragraph (a) of Section 11.11 ("Submission to Jurisdiction") shall be amended to include the following sentence at the end thereof:

"Each of the parties hereto also submits to the jurisdiction of the competent courts of its corporate domicile in respect of actions initiated against it as a defendant."

2.20 Paragraph (a) of Section 11.12 ("Appointment of Agent for Service of Process ") shall be amended by the insertion of the following sentence after the first sentence thereof:

"The Borrower and each Guarantor hereby appoints as its conventional domicile exclusively to receive any of the notices and service of process, the domicile of the Process Agent mentioned above or any other domicile notified in writing by the Process Agent to the Borrower or the Lender."

3. Representations and Warranties. The Borrower and the Guarantor hereby represent and warrant to the Lender that:

3.1 The representations and warranties of the Borrower contained in the Credit Agreement are true and correct as of the date of this Amendment No. 1; provided, however, that (i) in Section 5.06 ("Litigation"), the reference to Schedule 5.06 is replaced by Schedule 5.06 attached hereto and (ii) with respect to Section 5.11 ("Ownership of Property"), the representations and warranties are true and correct, other than as set forth in the Risk Factors in the Borrower's Form 20-F for the year ended December 31, 2007 filed with the SEC and updated in the Borrower's Form 6-K filed on August 19, 2008 with the SEC, in each case with respect to CEMEX Venezuela S.A.C.A.

3.2 The representations and warranties of the Guarantor contained in the Credit Agreement are true and correct as of the date of this Amendment No. 1; provided, however, in Section 6.05 ("Litigation"), the reference to Schedule 6.05 is replaced by Schedule 5.06 attached hereto.

3.3 The execution, delivery and performance by the Borrower and the Guarantor of this Amendment No. 1 has been duly authorized by all necessary corporate action, and this Amendment No. 1 constitutes the legal, valid and binding obligation of the Borrower and the Guarantor enforceable against the Borrower and the Guarantor in accordance with its terms, except as enforceability may be limited by applicable *concurso mercantil,* bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally or general equity principles.

3.4 The execution, delivery and performance of this Amendment No. 1 does not, and will not, contravene or conflict with any provision of (i) any Requirement of Law, (ii) any judgment, decree or order, or (iii) the certificate or articles of incorporation or by-laws or other constituent documents of the Borrower and the Guarantor, and does not, and will not, contravene or conflict with, or cause any Lien to arise under, any provision of any Contractual Obligation applicable to the Borrower and the Guarantor.

3.5 No Default or Event of Default exists under the Credit Agreement or any other Transaction Document or will exist after or be triggered by the execution, delivery and performance of this Amendment No. 1. In addition, the Borrower and the Guarantor hereby represent, warrant and reaffirm that the Credit Agreement, the Notes and each of the other Transaction Documents remain in full force and effect.

4. Facility Fee. The Borrower hereby agrees to pay to the Lender a facility fee which shall accrue and be payable in arrears for each Calculation Period in an amount equal to the percentage per

annum determined in accordance with the table below (the "Facility Fee"), and shall be applied to the Lender's Average Outstanding Loan for such Calculation Period and will accrue on, and be calculated based on, the number of days elapsed in such Calculation Period. The Facility Fee for each Calculation Period will be as set forth below determined in accordance with the Consolidated Net Debt / EBITDA Ratio calculated based on the financial statements delivered, or required to be delivered, on the applicable Calculation Date:

Consolidated Net Debt / EBITDA Ratio	Facility Fee
Greater than 4.50 to 1	2.00%
Less than or equal to 4.50 to 1, but greater than 4.00 to 1	1.25%
Less than or equal to 4.00 to 1, but greater than 3.75 to 1	0.75%
Less than or equal to 3.75 to 1, but greater than 3.50 to 1	0.5%
Less than or equal to 3.50 to 1	0%

The Facility Fee shall be payable within five Business Days after the Calculation Date applicable to each relevant Calculation Period (the " Facility Fee Payment Date"); provided that, in respect of any Calculation Period in which the Loan is repaid or prepaid in full, the Facility Fee Payment Date in respect of such Calculation Period shall be deemed to occur on the date of such repayment or prepayment. Notwithstanding the above, no Facility Fee shall be payable in respect of any Calculation Period in which an acceleration of any Loan occurs or in respect of any fiscal quarter thereafter.

For purposes of this Section 4, the following definitions shall apply:

"Average Outstanding Loan" means, for any fiscal quarter, the aggregate principal amount of the Loan outstanding under the Credit Agreement as of the end of each day during such fiscal quarter, divided by the number of days in such fiscal quarter.

"Calculation Date" means with respect to each Calculation Period, the earlier of the date on which the Borrower delivers, or is required to deliver its financial statements with respect to the fiscal quarter ending on the last day of such Calculation Period in accordance with Sections 7.01(a) and 7.01(b) of the Credit Agreement; provided, however, that the Calculation Date for the final Facility Fee Payment Date shall be the date on which the financial statements for the most recently completed fiscal quarter for which financial statements are required to have been delivered pursuant Sections 7.01(a) and 7.01(b) of the Credit Agreement have been delivered or were required to be delivered.

"Calculation Period" means each fiscal quarter; provided, however, the first Calculation Period shall commence on the Amendment No. 1 Effective Date and the last Calculation Period shall end on the last Facility Fee Payment Date.

5. Conditions Precedent to Effectiveness. The effectiveness of the amendments set forth in Section 2 hereof are in each instance subject to the satisfaction of each of the following conditions precedent (the date on which all such conditions precedent are satisfied or waived being the " Amendment No. 1 Effective Date"):

5.1 Amendment No. 1. This Amendment No. 1 shall have been duly executed and delivered by each of the Borrower, the Guarantor and the Lender.

5.2 No Default. No Default or Event of Default shall have occurred and be continuing or would result from the effectiveness of this Amendment No. 1.

5.3 Opinions. The Lender shall have received opinions from (i) the Borrower's General Counsel and (ii) Skadden, Arps, Slate, Meagher & Flom LLP, with respect to the enforceability of this Amendment No. 1 and no conflict with New York law and material agreements governed by New York law, and in form and substance acceptable to the Lender.

5.4 No Material Adverse Effect. No Material Adverse Effect has occurred since December 31, 2007 (excluding the financial condition and events previously disclosed in (i) the Borrower's filings made with the SEC or the *Bolsa Mexicana de Valores, S.A.B de C.V.* after December 31, 2007; or (ii) in the Borrower's unaudited financial statements for each of the first three fiscal periods of 2008).

5.5 Solvency. Each of the Borrower and the Guarantor is, and after giving effect to each of the transactions contemplated by this Amendment No. 1 and the Transaction Documents will be, Solvent.

5.6 Miscellaneous. The Lender shall have received such other agreements, instruments and documents as the Lender may reasonably request.

5.7 Other Facilities. Section 2.12 of this Amendment shall not be effective until the debt obligations set forth on Exhibit A attached hereto have been amended in form and substance reasonably satisfactory to the Lender and the Borrower shall have notified the Administrative Agent in writing of such modification.

6. Reference to and Effect Upon the Credit Agreement and other Transaction Documents.

6.1 Full Force and Effect. Except as specifically provided herein, the Credit Agreement, the Notes and each other Transaction Document shall remain in full force and effect and each Note, Transaction Document, and the Credit Agreement is hereby ratified and confirmed by the Borrower.

6.2 No Waiver. The execution, delivery and effect of this Amendment No. 1 shall be limited precisely as written and shall not be deemed to (i) be a consent to any waiver of any term or condition, or to any amendment or modification of any term or condition (except as specifically provided herein) of the Credit Agreement, the Notes or any other Transaction Document, (ii) prejudice any right, power or remedy which the Lender now has or may have in the future under or in connection with the Credit Agreement or any other Transaction Document or (iii) constitute a novation of any of the obligations under the Credit Agreement, the Notes, and the other Transaction Documents.

6.3 Certain Terms. Each reference in the Credit Agreement to "this Agreement", "hereunder", "hereof", "herein" or any other word or words of similar import shall mean and be a

reference to the Credit Agreement as amended hereby, and each reference in any other Transaction Document to the Credit Agreement or any word or words of similar import shall be and mean a reference to the Credit Agreement as amended hereby.

7. Counterparts. This Amendment No. 1 may be executed in any number of counterparts, each of which when so executed shall be deemed an original but all such counterparts shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment No. 1 by telecopier shall be as effective as delivery of a manually executed counterpart signature page to this Amendment No. 1.

8. Costs and Expenses. As provided in the Credit Agreement, the Borrower shall pay the reasonable fees, costs and expenses incurred by the Lender in connection with the preparation, execution and delivery of this Amendment No. 1 (including, without limitation, attorneys' fees).

9. GOVERNING LAW. THIS AMENDMENT NO. 1 SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK.

10. Headings. Section headings in this Amendment No. 1 are included herein for convenience of reference only and shall not constitute a part of this Amendment No. 1 for any other purpose.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

CEMEX, S.A.B. DE C.V.,
as Borrower

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

CEMEX MÉXICO, S.A. DE C.V.,
as Guarantor

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-Fact

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the date first written above.

BANCO BILBAO VIZCAYA ARGENTARIA, S.A., NEW YORK BRANCH,
as Lender

By /s/ Rodolfo Hare
Name: Rodolfo Hare
Title: Vice President, Global Corporate Banking

By /s/ Christian Aguirre
Name: Christian Aguirre
Title: Assistant Vice President, International Corporate Banking

Exhibit A

Other Facilities

(1) Credit Agreement, dated as of June 6, 2005, by and among CEMEX, as borrower, CEMEX México and Empresas Tolteca, as guarantors, Barclays Bank PLC, New York Branch, as issuing bank and documentation agent, ING Bank N.V., as issuing bank, the several lenders party thereto, and Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint bookrunner, Citigroup Global Markets Inc., as joint bookrunner and syndication agent, and ING Capital LLC, as joint bookrunner and administrative agent, for an aggregate principal amount of U.S.$700,000,000, as amended by Amendment No. 1 thereto, dated as of June 21, 2006, the Amendment and Waiver Agreement, dated as of December 1, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of the date hereof.

(2) Credit Agreement, dated as of May 31, 2005, by and among CEMEX, as borrower, CEMEX México and Empresas Tolteca, as guarantors, the several lenders party thereto, Barclays Bank PLC, New York Branch, as administrative agent, Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner, for an aggregate principal amount of U.S.$1,200,000,000, as amended by Amendment No. 1 thereto, dated as of June 19, 2006, the Amendment and Waiver Agreement, dated as of November 30, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Limited Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of the date hereof.

(3) Amended and Restated Facilities Agreement, dated as of the date hereof, for New Sunward Holding B.V. as borrower, CEMEX, CEMEX Mexico and Empresas Tolteca as guarantors and Citibank, N.A. as agent, for an aggregate principal amount of U.S.$700,000,000.

(4) Senior Unsecured Dutch Loan "A" Agreement, dated as of June 2, 2008, by and among NSH, CEMEX, CEMEX México, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto for an aggregate principal amount of U.S. $525,000,000 as amended by First Amendment and Waiver to Senior Unsecured Dutch Loan "A" Agreement dated as of the date hereof.

(5) Senior Unsecured Dutch Loan "B" Agreement, dated as of June 2, 2008, by and among NSH, CEMEX, CEMEX México, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto for an aggregate principal amount of U.S. $525,000,000 as amended by First Amendment and Waiver to Senior Unsecured Dutch Loan "B" Agreement dated as of the date hereof.

(6) Amendment and Restatement Agreement relating to a U.S.$2,300,000,000 revolving facilities agreement, dated as of September 24, 2004 (as amended and restated from time to time) and made between, among others, CEMEX España, S.A., as borrower and guarantor, Citigroup

Global Markets Limited, Banco Bilbao Vizcaya Argentaria, S.A., Banco Santander Central Hispano, S.A. and Calyon Corporate and Investment Bank as arrangers and joint bookrunners, and Citibank International plc acting as agent.

(7) Waiver letter relating to a EUR250,000,000 and JBY19,308,000,000 term and revolving facilities agreement dated as of March 30, 2004 (as amended and restated from time to time) and made between, among others, CEMEX España, S.A., as borrower, Banco Bilbao Vizcaya Argentaria, S.A. and Société Générale, S.A. as arrangers, and Banco Bilbao Vizcaya Argentaria, S.A. as agent.

Schedule 5.06

Litigation

A description of material actions, suits, investigations, litigations or proceedings, including Environmental Actions, affecting Borrower or any of its Subsidiaries before any court, Governmental Authority or arbitrator is provided below.

Environmental Matters

United States

As of November 30, 2008, CEMEX, Inc. and its subsidiaries had accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately U.S.$42.6 million. The environmental matters relate to (i) the disposal of various materials, in accordance with past industry practice, which might be categorized as hazardous substances or wastes, and (ii) the cleanup of sites used or operated by CEMEX, Inc., including discontinued operations, regarding the disposal of hazardous substances or wastes, either individually or jointly with other parties. Most of the proceedings are in the preliminary stage, and a final resolution might take several years. For purposes of recording the provision, CEMEX, Inc. considers that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. Based on information available to date, CEMEX, Inc. does not believe it will be required to spend significant sums on these matters, in excess of the amounts previously recorded. The ultimate cost that might be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work, and negotiations with or litigation against potential sources of recovery have been completed.

CEMEX Construction Materials Florida, LLC f/k/a Rinker Materials of Florida, Inc., a subsidiary of CEMEX, Inc., holds one federal quarry permit and is the beneficiary of one of 10 other federal quarrying permits granted for the Lake Belt area in South Florida. The permit held by CEMEX Florida covers CEMEX Florida's SCL and FEC quarries. CEMEX Florida's Krome quarry is operated under one of the other federal quarry permits. The FEC quarry is the largest of CEMEX Floridas' quarries measured by volume of aggregates mined and sold. CEMEX Florida's Miami cement mill is located at the SCL quarry and is supplied by that quarry. A ruling was issued on March 22, 2006 by a judge of the U.S. District Court for the Southern District of Florida in connection with litigation brought by environmental groups concerning the manner in which the permits were granted. Although not named as a defendant, CEMEX Florida has intervened in the proceedings to protect its interests. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the relevant governmental agencies in connection with the issuance of the permits. The judge remanded the permits to the relevant governmental agencies for further review, which review the governmental agencies have indicated in a recent announcement should take until mid February 2009 to conclude. The judge also conducted further proceedings to determine the activities to be conducted during the remand period. In July 2007, the judge issued a ruling that halted certain quarrying operations at three non-CEMEX Florida quarries. The judge left in place CEMEX Florida's Lake Belt permits until the relevant government agencies complete their review. In a May 2008 ruling, the federal appellate court determined that the district court judge did not apply the proper standard of review to the permit issuance decision of the governmental agency, vacated the district court's prior order, and remanded the proceeding to the district court to apply the proper standard of review; this review remains pending before the district court judge. If the Lake Belt permits are ultimately set aside or quarrying operations under them restricted, CEMEX Florida will need to source aggregates, to the extent available, from other locations in Florida or import aggregates. This would likely

affect profits from our Florida operations. Any adverse impacts on the Florida economy arising from the cessation or significant restriction of quarrying operations in the Lake Belt could also have a material adverse effect on our financial results.

Europe

In Great Britain, future expenditure on closed and current landfill sites has been assessed and quantified over the period in which the sites are considered to have the potential to cause environmental harm, generally consistent with the regulator view of up to 60 years from the date of closure. The assessed expenditure relates to the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure. The costs have been quantified on a net present value basis in the amount of approximately £122 million, and an accounting provision for this sum has been made at December 31, 2007.

In 2003, the European Union adopted a directive implementing the Kyoto Protocol on climate change and establishing a greenhouse gas emissions allowance trading scheme within the European Union. The directive requires Member States to impose binding caps on carbon dioxide emissions from installations involved in energy activities, the production and processing of ferrous metals, the mineral industry (including cement production) and the pulp, paper or board production business. Under this scheme, companies with operations in these sectors receive from the relevant Member States allowances that set limitations on the levels of greenhouse gas emissions from their installations. These allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that are not reaching their emissions objectives. Companies can also use credits issued from the use of the flexibility mechanisms under the Kyoto protocol to fulfill their European obligations. These flexibility mechanisms provide that credits (equivalent to allowances) can be obtained by companies for projects that reduce greenhouse gas emissions in emerging markets. These projects are referred to as Clean Development Mechanism ("CDM") or joint implementation projects depending on the countries where they take place. Failure to meet the emissions caps is subject to heavy penalties.

Companies can also use, up to a certain level, credits issued under the flexible mechanisms of the Kyoto protocol to fulfill their European obligations. Credits for Emission Reduction projects obtained under these mechanisms are recognized, up to a certain level, under the European emission trading scheme as allowances. To obtain these emission reduction credits, companies must comply with very specific and restrictive requirements from the United Nations Convention on Climate Change (UNFCC).

As required by directive, each of the Member States established a National Allocations Plan, or NAP, setting out the allowance allocations for each industrial facility for Phase I, from 2005 to 2007. Based on the NAPs established by the Member States of the European Union for the 2005 to 2007 period and our actual production, on a consolidated basis after trading allowances between our operations in countries with a deficit of allowances and our operations in countries with an excess of allowances, and after some external operations, Borrower’s Subsidiaries had a surplus of allowances of approximately 1,050,054 tons of carbon dioxide in this Phase I.

For Phase II, comprising 2008 through 2012, however, there has been a reduction in the allowances granted by the Member States that have already approved their NAP, which may result in a consolidated deficit in our carbon dioxide allowances during the period. We believe we may be able to reduce the impact of any deficit by either reducing carbon dioxide emissions in our facilities or by obtaining additional emission credits through the implementation of CDM projects. If we are not successful in implementing emission reductions in our facilities or obtaining credits from CDM projects, we may have to purchase a significant amount of emission credits in the market, because CEMEX has already sold a substantial amount of allowances for Phase II, the cost of which may have an impact on our

operating results. As of December 1, 2008, the market value of carbon dioxide allowances for Phase II was approximately 15.45 € per ton. CEMEX is taking all the measures to minimize our exposure to this market while assuring the supply of our products to our clients.

The Spanish NAP has been finally approved by the Spanish Government, reflecting the conditions that were set forth by the European Commission. The allocations made to our installations allow us to foresee certain availability of allowances, nevertheless, there remains the uncertainty regarding the allocations that, against the reserve for new entrants, shall be requested for the new CEMEX cement plant in Andorra (Teruel), currently under construction, and that it is scheduled to start operating in 2010.

On May 29, 2007, the Polish government filed an appeal before the Court of First Instance in Luxemburg regarding the European Commission's rejection of the initial version of the Polish NAP. The Court has denied Poland's request for a quick path verdict in the case, keeping the case in the regular proceeding path, therefore, the Polish government has started to prepare Polish internal rules on division of allowance at the level already accepted by the European Commission. Seven major Polish cement producers, representing 98% of Polish cement production (including CEMEX Polska), have also filed seven separate appeals before the Court of First Instance regarding the European Commission's rejection. On September 29, 2008 the Court of the First Instance issued an order rejecting CEMEX Polska's appeal without going into the merit of the case. As of December 4, 2008 the final version of the Polish NAP has not been cleared by the Commission; CEMEX's has not determined the impact this may have on CEMEX¨s position in the country.

Tax Matters

Pursuant to amendments to the Mexican income tax law (*Ley del Impuesto sobre la Renta*), which became effective on January 1, 2005, Mexican companies with direct or indirect investments in entities incorporated in foreign countries whose income tax liability in those countries is less than 75% of the income tax that would be payable in Mexico will be required to pay taxes in Mexico on passive income such as dividends, royalties, interest, capital gains and rental fees obtained by such foreign entities, provided that the income is not derived from entrepreneurial activities in such countries (income derived from entrepreneurial activities is not subject to tax under these amendments). We filed two motions in the Mexican federal courts challenging the constitutionality of the amendments. On June 29, 2006, we obtained a favorable ruling from the Mexican federal court stating that the amendments were unconstitutional. The Mexican tax authority appealed the ruling, and the proceeding was attracted by the Mexican Supreme Court of Justice. On September 9, 2008, the Mexican Supreme Court ruled against CEMEX's constitutional challenge of the controlled foreign corporation tax rules in effect in Mexico for tax years 2005 to 2007. Since the Supreme Court's decision does not pertain to an amount of taxes due or other tax obligations, CEMEX will self-assess any taxes due through the submission of amended tax returns. CEMEX has not yet determined the amount of tax or the periods affected. Based on a preliminary estimate, CEMEX believes this amount will not be material, but no assurance can be given that additional analysis will not lead to a different conclusion. If the tax authorities do not agree with CEMEX's self-assessment of the taxes due for past periods, they may assess additional amounts of taxes past due, which may be material and may impact CEMEX cash flows.

The Mexican Congress approved several amendments to the Mexican Asset Tax Law (Ley del Impuesto al Activo) that came into effect on January 1, 2007. As a result of such amendments, all Mexican corporations, including us, are no longer allowed to deduct their liabilities from the calculation of the asset tax. We believe that the Asset Tax Law, as amended, is against the Mexican constitution. We have challenged the Asset Tax Law through appropriate judicial action (juicio de amparo).

The asset tax was imposed at a rate of 1.25% on the value of most of the assets of a Mexican corporation. The asset tax was "complementary" to the corporate income tax (*impuesto sobre la renta*) and, therefore, was payable only to the extent it exceeded payable income tax.

Philippines

As of November 30, 2008, the Philippine Bureau of Internal Revenue (BIR), had assessed APO, Solid, IQAC, ALQC and CSPI, our operating subsidiaries in the Philippines, for deficiency taxes covering taxable years 1998-2005 amounting to a total of approximately 1,994 million Philippine Pesos (approximately U.S.$40.727 million as of November 30, 2008, based on an exchange rate of Philippine Pesos 48.96 to U.S.$1.00, which was the Philippine Peso/Dollar exchange rate on November 30, 2008 as published by the Bangko Sentral ng Pilipinas, the central bank of the Republic of the Philippines).

The majority of the tax assessments result primarily from the disallowance of APO's income tax holiday incentives for taxable years 1999 to 2001 (approximately Philippine Pesos 1,078 million or U.S.$22.1 million as of November 30, 2008, based on an exchange rate of Philippine Pesos 48.96 to U.S.$1.00). We have contested the BIR's assessment, arising from the disallowance of the ITH incentive, with the Court of Tax Appeals (CTA). The initial Division ruling of the CTA was unfavorable, but is subject to further appeal with the CTA as a whole. The assessment is now currently on appeal with the CTA En Banc. A motion was filed with the CTA, requesting the court to hold APO totally not liable for alleged income tax liabilities for all the years covered and to this end cancel and withdraw APO's deficiency income tax assessments for taxable years 1999, 2000 and 2001 on the basis of APO's availment of the tax amnesty described below. As of November 30, 2008, resolution on the aforementioned motion is still pending.

CEMEX Venezuelan Nationalization

In furtherance of Venezuela’s announced policy to nationalize certain sectors of the economy, on June 18, 2008, the Nationalization Decree was promulgated, mandating that the cement production industry in Venezuela be reserved for the Government of Venezuela and ordering the conversion of foreign-owned cement companies, including CEMEX Venezuela, into state-controlled companies with Venezuela holding an equity interest of at least 60%. The Nationalization Decree provided for the formation of a transition committee to be integrated with the board of directors of the relevant cement company to guaranty the transfer of control over all activities of the relevant cement company to Venezuela by December 31, 2008. The Nationalization Decree further established a deadline of August 17, 2008 for the shareholders of foreign-owned cement companies, including CEMEX Venezuela, to reach an agreement with the Government of Venezuela on the compensation for the nationalization of their assets. The Nationalization Decree also provided that this deadline may be extended by mutual agreement of the Government of Venezuela and the relevant shareholder. The transition committee, which was to be coordinated by the Ministry of Basic Industries (MIBAN), was never formally instituted and MIBAN never acted in the process, but instead Petroleos de Venezuela (PDVSA) conducted all the conversations.

CEMEX Venezuela and the Government did not reach agreement by the August 17 deadline, and on August 18 the Expropriation Decree was issued by the President of Venezuela, with PDVSA appointed to conduct the expropriation proceedings. Although these proceedings had not yet commenced, PDVSA officials headed a group of PDVSA workers, with the support of the public force, to take over all the facilities of CEMEX Venezuela on August 17. Since no agreement has been reached with the Venezuelan Government as to the compensation to be paid, the Dutch companies that control CEMEX Venezuela filed an arbitration request before the International Center for the Settlement of Investment Disputes against the Government of Venezuela, which request has been registered and the tribunal is in the process of being formed.

As of December 31, 2007, CEMEX Venezuela, S.A.C.A. was the holding entity of several of CEMEX's investments in the region, including CEMEX's operations in the Dominican Republic and Panama, as well as CEMEX's minority investment in Trinidad. In the wake of statements by the Government of Venezuela about the nationalization of assets in Venezuela, in April 2008, CEMEX concluded the transfer of all material non-Venezuelan investments to CEMEX España for approximately U.S.$355 million plus U.S.$112 million of net debt, having distributed all accrued profits from the non-Venezuelan investments to the stockholders of CEMEX Venezuela amounting to approximately U.S.$132 million. At this time, the net impact or the outcome of the nationalization on CEMEX's consolidated financial results cannot be reasonably estimated. As of June 30, 2008 the net assets of CEMEX's Venezuelan operations under Mexican FRS were approximately [U.S.$821.7]. Since August 2008, CEMEX no longer consolidates the financial results of CEMEX Venezuela.

On June 13, 2008, the Venezuelan securities authority initiated an administrative proceeding against CEMEX Venezuela, claiming that the company did not sufficiently inform its shareholders and the securities authority in connection with the transfer of the non-Venezuelan assets described above. The Venezuelan authority determined that CEMEX Venezuela did not comply with its disclosure obligations and imposed fines on the company, which we do not consider material, and requested the attorney general's office to review the case to determine if such non-disclosure also constituted criminal infringement.

Other Legal Proceedings

On August 5, 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia, claiming that it was liable along with the other members of the *Asociación Colombiana de Productores de Concreto*, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system of Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads in a manner which guarantees their service during the 20-year period for which they were originally designed, and estimate that the cost of such repair will be approximately U.S.$45 million. The lawsuit was filed within the context of a criminal investigation of two ASOCRETO officers and other individuals, alleging that the ready-mix concrete producers were liable for damages if the ASOCRETO officers were criminally responsible. The court completed the evidentiary stage, and on August 17, 2006 dismissed the charges against the members of ASOCRETO. The other defendants (one ex-director of the Distrital Institute of Development, the legal representative of the constructor and the legal representative of the contract auditor) were formally accused. The decision was appealed, and on December 11, 2006, the decision was reversed and the two ASOCRETO officers were formally accused as participants (determiners) in the execution of a state contract without fulfilling all legal requirements thereof. The first public hearing took place on November 20, 2007. In this hearing the judge dismissed an annulment petition filed by the ASOCRETO officers. The petition was based on the fact that the officers were formally accused of a different crime than the one they were being investigated for. This decision was appealed, but the decision was confirmed by the Superior Court of Bogota. On January 21, 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called El Tujuelo, as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required within a period of 10 days to deposit with the Court in cash CoP$337,800 million (approximately

U.S.$195 million as of June 4, 2008, based on an exchange rate of CoP1730 to U.S.$1.00, which was the Colombian Peso/Dollar exchange rate on June 4, 2008, as published by the *Banco de la República de Colombia*, the central bank of Colombia), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. The measure does not affect the normal activity of the quarry. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.

On August 5, 2005, Cartel Damages Claims, SA, or CDC, filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG and other German cement companies. CDC is seeking €102 million in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002, which entities had assigned their claims to CDC. CDC is a Belgian company established by two lawyers in the aftermath of the German cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office with the express purpose of purchasing potential damages claims from cement consumers and pursuing those claims against the cartel participants. In January 2006, another entity assigned alleged claims to CDC, and the amount of damages being sought by CDC increased to €113.5 million plus interest. On February 21, 2007, the District Court of Düsseldorf decided to allow this lawsuit to proceed without going into the merits of this case by issuing an interlocutory judgment. All defendants appealed. The appeal hearing took place on April 22, 2008, and the appeal was dismissed on May 14, 2008. The lawsuit will proceed at the level of court of first instance. As of September 30, 2008 only one defendant has decided to file a complaint before the Federal High Court; this will delay the case from proceeding at the level of first instance to an extent we cannot assess today. In the meantime, CDC had acquired new assigners and announced an increase in the claim to €131 million. As of November 30, 2008, we had accrued liabilities regarding this matter for a total amount of approximately €20 million.

After an extended consultation period, in April 2006, the cities of Kaštela and Solin in Croatia published their respective Master (physical) Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to Dalmacijacement, our subsidiary in Croatia, by the Government of Croatia in September 2005. During the consultation period, Dalmacijacement submitted comments and suggestions to the Master Plans, but these were not taken into account or incorporated into the Master Plan by Kaštela and Solin. Most of these comments and suggestions were intended to protect and preserve the rights of Dalmacijacement´s mining concession granted by the Government of Croatia in September 2005. Immediately after publication of the Master Plans, Dalmacijacement filed a series of lawsuits and legal actions before the local and federal courts to protect its acquired rights under the mining concessions. The legal actions taken and filed by Dalmacijacement were as follows: (i) on May 17, 2006, a constitutional appeal before the constitutional court in Zagreb, seeking a declaration by the court concerning Dalmacijacement's constitutional claim for decrease and obstruction of rights earned by investment, and seeking prohibition of implementation of the Master Plans. This cases is currently under review by the court in Croatia, and it is expected that these proceedings will continue for several years before resolution; (ii) on May 17, 2006, a possessory action against the cities of Kaštela and Solin seeking the enactment of interim measures prohibiting implementation of the Master Plans and including a request to implead the Republic of Croatia into the proceeding on our side. The municipal court in Solin issued a first instance judgment dismissing our possessory action. We filed an appeal against that judgment. The appeal has been resolved by the Solin County Court, affirming the judgment and rendering it final. The Municipal Court in Kaštela has issued a first instance judgment dismissing our possessory action. We filed an appeal against said judgment, which has since been resolved by the Kaštela Country Court, affirming the judgment and rendering it final; (iii) on May 17, 2006, an administrative proceeding before the State Lawyer, seeking a declaration from the Government of Croatia confirming that Dalmacijacement acquired rights under the mining concessions.

Dalmacijacement received State Lawyer’s opinion which confirms the Dalmacijacement's acquired rights according to the previous decisions ("old concession"). The Administrative Court in Croatia has ruled in favor of Dalmacijacement, validating the legality of the mining concession granted to Dalmacijacement by the Government of Croatia. This decision is final. Currently it is difficult for Dalmacijacement to ascertain the approximate economic impact of these measures by Kaštela and Solin).

Club of Environmental Protection, a Latvian environmental protection organization (hereinafter the “Applicant”), has initiated a court administrative proceeding against the decision made by the Environment State Bureau (hereinafter the “Defendant) in order to amend the environmental pollution permit (the “Permit”) for the Broceni Cement Plant in Latvia, owned by CEMEX SIA (the “Disputed Decision”). CEMEX SIA was invited to participate in the court proceedings as a third party, whose rights and legal interest may be infringed by the relevant administrative act. On June 5, 2008 the Court rendered its judgment, where it satisfied the Claimant’s claim and revoked the Disputed Decision stating that it is illegal because Defendant failed to perform public inquiry in accordance with legal regulations. The judgment has been appealed by both the Defendant and CEMEX SIA before the Court of Appeal and the court will hear the case in February 24, 2009. The appellate procedure will not suspend the operation of the Permit which will remain valid throughout the court proceedings, hence CEMEX SIA is allowed to continue to perform its activities. The Permit subject to this proceeding was issued for the existing cement line, which will be fully substituted in the first half of 2009 by a new cement line currently under construction.

Schedule 8.04

[Qualified Receivables Transactions]

[TO COME]

Schedule 8.04

Qualified Receivables Transactions

	Description	Counterparty	Date	Currency	Amount in million	Amount in USD million	Maturity
CEMEX France Finance S.A.S	Amended and Restated Receivables Assignment Agreement (as amended)	ING Bank (France) S.A.	May 31, 2006	EURO	160,000,000	201,840,000	May 31, 2009
Cemex Inc.	Amended and Restated Receivables Purchase Agreement (as amended)	JP Morgan Chase Bank, N.A./ Lloyds TSB Bank plc	March 20, 2008	USD	500,000,000	500,000,000	March 20, 2009
Cemex Mexico, S.A. de C.V.	Agreement for the Sale and Transfer of Ownership of Designated Receivable	WLB Funding, S.A. de CM., SOFOM, E.N.R.	January 9, 2008	MXN	2,298,000,000	168,946,985	January 9, 2009
Cemex Espana, S.A.	Amended and Restated Receivables Purchase Agreement (as amended)	WestLB AG	May 9, 2006	EURO	300,000,000	378,450,000	May 9, 2011
TOTAL						**1,249,236,985**	

Exhibit 4.27.2

EXECUTION VERSION

SECOND AMENDMENT TO CREDIT AGREEMENT

This Second Amendment to the Credit Agreement (as defined below), dated as of January 22, 2009 (this " Amendment No. 2"), is entered into by and among **CEMEX, S.A.B. de C.V.**, a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States (the "Borrower"), **CEMEX MÉXICO, S.A. de C.V.**, a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States (the "Guarantor") and **BANCO BILBAO VIZCAYA ARGENTARIA, S.A.** acting through its NEW YORK BRANCH (the "Lender").

RECITALS

A. The Borrower, the Guarantor, and the Lender, are parties to that certain credit agreement, dated as of June 25, 2008, in the amount of U.S.$500,000,000, as amended by Amendment No. 1 to the Credit Agreement, dated as of December 19, 2008 (as now or hereafter amended, restated, waived or otherwise modified, the "Credit Agreement").

B. The Borrower has requested that the Lender consent to the following amendment to the Credit Agreement.

C. This Amendment No. 2 shall constitute a Transaction Document and these Recitals shall be construed as part of this Amendment No. 2.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, and of the Loan and other extensions of credit heretofore, now or hereafter made to, or for the benefit of, the Borrower by the Lender, the Borrower and the Lender hereby agree as follows:

1. Definitions. Except to the extent otherwise specified herein, capitalized terms used in this Amendment No. 2 shall have the same meanings ascribed to them in the Credit Agreement.

2. Amendments. Subject to Section 4, the Credit Agreement is hereby amended as follows:

2.1 The definition for "EBITDA" in Section 1.01 ("Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""EBITDA" means, for any period, the sum for the Borrower and its Subsidiaries, determined on a consolidated basis of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Mexican FRS, subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA for any applicable period pursuant to any determination of the Consolidated Net Debt / EBITDA Ratio (but not the Consolidated Fixed Charge Coverage Ratio): (A) (i) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Disposition, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the

property that is the subject of such Material Disposition for such applicable period (but when the Material Disposition is by way of lease, income received by the Borrower or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving *pro forma* effect thereto (including the incurrence or assumption of any Debt) as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any Person that subsequently shall have become a Subsidiary or was merged or consolidated with the Borrower or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Disposition or Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Borrower or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Disposition or Acquisition had occurred on the first day of such applicable period; and (B) all EBITDA for each applicable period ending on or after December 31, 2008 will be recalculated by multiplying each month's EBITDA by the Ending Exchange Rate and dividing the amount obtained thereto by the exchange rate used by the Borrower in preparation of its monthly financial statements in accordance with Mexican FRS to convert U.S.$ into Mexican pesos (such recalculated EBITDA being the " Recalculated EBITDA"), provided, that, the Lender shall have the option, with respect to any Reference Period ending after December 31, 2009, to discontinue the incorporation of Recalculated EBITDA into the Consolidated Net Debt/EBITDA Ratio (the "Discontinue Option"). The Lender may exercise the Discontinue Option upon notice to the Borrower of such exercise in writing (the "Notice of Discontinuance") at least thirty (30) days prior to the end of such Reference Period. Subject to the foregoing notice requirements, such Discontinue Option shall be effective for each Reference Period ending after the date of such Notice of Discontinuance to the Borrower as set forth herein."

2.2 The definition for "Ending Exchange Rate" in Section 1.01 ("Certain Definitions") shall be deleted and replaced in its entirety with the following language:

""Ending Exchange Rate" means the exchange rate at the end of a Reference Period for converting U.S.$ into Mexican pesos, used by the Borrower and its auditors in preparation of the Borrower's financial statements in accordance with Mexican FRS."

2.3 The definition of "U.S.$/Euro EBITDA" in Section 1.01 ("Certain Definitions") shall be deleted in its entirety.

3. Representations and Warranties. The Borrower and the Guarantor hereby represent and warrant to the Lender that:

3.1 The representations and warranties of the Borrower contained in the Credit Agreement are true and correct as of the date of this Amendment No. 2; provided, however, that with respect to Section 5.11 ("Ownership of Property"), the representations and warranties are true and correct, other than as is set forth in the Risk Factors in the Borrower's Form 20-F for the year ended December 31, 2007 filed with the SEC and updated in the Borrower's Form 6-K filed on August 19, 2008 with the SEC, in each case with respect to CEMEX Venezuela S.A.C.A.

3.2 The representations and warranties of the Guarantor contained in the Credit Agreement are true and correct as of the date of this Amendment No. 2.

3.3 The execution, delivery and performance by the Borrower and the Guarantor of this Amendment No. 2 has been duly authorized by all necessary corporate action, and this Amendment

No. 2 constitutes the legal, valid and binding obligation of the Borrower and the Guarantor enforceable against the Borrower and the Guarantor in accordance with its terms, except as enforceability may be limited by applicable *concurso mercantil,* bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally or general equity principles.

3.4 The execution, delivery and performance of this Amendment No. 2 does not, and will not, contravene or conflict with any provision of (i) any Requirement of Law, (ii) any judgment, decree or order, or (iii) the certificate or articles of incorporation or by-laws or other constituent documents of the Borrower and the Guarantor, and does not, and will not, contravene or conflict with, or cause any Lien to arise under, any provision of any Contractual Obligation applicable to the Borrower and the Guarantor.

3.5 No Default or Event of Default exists under the Credit Agreement or any other Transaction Document or will exist after or be triggered by the execution, delivery and performance of this Amendment No. 2. In addition, the Borrower and the Guarantor hereby represent, warrant and reaffirm that the Credit Agreement, the Note and each of the other Transaction Documents remain in full force and effect.

4. Conditions Precedent to Effectiveness. The effectiveness of the amendments set forth in Section 2 hereof are in each instance subject to the satisfaction of each of the following conditions precedent (the date on which all such conditions precedent are satisfied or waived being the " Amendment No. 2 Effective Date"):

4.1 Amendment No. 2. This Amendment No. 2 shall have been duly authorized, executed and delivered by each of the Borrower, the Guarantor and the Lender.

4.2 No Default. After giving effect to this Amendment No. 2, no Default or Event of Default shall have occurred and be continuing, or would result from the execution or effectiveness of this Amendment No. 2.

4.3 No Material Adverse Effect. No Material Adverse Effect has occurred since December 31, 2007 (excluding the financial condition and events previously disclosed in (i) the Borrower's filings made with the SEC or the *Bolsa Mexicana de Valores, S.A.B de C.V.* after December 31, 2007; or (ii) in the Borrower's unaudited financial statements for each of the first three fiscal periods of 2008).

4.4 Solvency. Each of the Borrower and the Guarantor is, and after giving effect to each of the transactions contemplated by this Amendment No. 2 and the Transaction Documents will be, Solvent.

4.5 Miscellaneous. The Lender shall have received such other agreements, instruments and documents as the Lender may reasonably request.

4.6 Other Facilities. This Amendment shall not be effective until the debt obligations set forth on Exhibit A attached hereto have been amended in form and substance reasonably satisfactory to the Lender and the Borrower shall have notified the Lender in writing of such modification.

5. Reference to and Effect Upon the Credit Agreement and other Transaction Documents.

5.1 Full Force and Effect. Except as specifically provided herein, the Credit Agreement, the Note and each other Transaction Document shall remain in full force and effect and each Transaction Document, the Note and the Credit Agreement is hereby ratified and confirmed by the Borrower.

5.2 No Waiver. The execution, delivery and effect of this Amendment No. 2 shall be limited precisely as written and shall not be deemed to (i) be a consent to any waiver of any term or condition, or to any amendment or modification of any term or condition (except as specifically provided herein) of the Credit Agreement, the Note or any other Transaction Document, (ii) prejudice any right, power or remedy which the Lender now has or may have in the future under or in connection with the Credit Agreement or any other Transaction Document or (iii) constitute a novation of any of the obligations under the Credit Agreement, the Note, and the other Transaction Documents.

5.3 Certain Terms. Each reference in the Credit Agreement to "this Agreement", "hereunder", "hereof", "herein" or any other word or words of similar import shall mean and be a reference to the Credit Agreement as amended hereby, and each reference in any other Transaction Document to the Credit Agreement or any word or words of similar import shall be and mean a reference to the Credit Agreement as amended hereby.

6. Counterparts. This Amendment No. 2 may be executed in any number of counterparts, each of which when so executed shall be deemed an original but all such counterparts shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment No. 2 by telecopier shall be as effective as delivery of a manually executed counterpart signature page to this Amendment No. 2.

7. Costs and Expenses. As provided in the Credit Agreement, the Borrower shall pay the reasonable fees, costs and expenses incurred by the Lender in connection with the preparation, execution and delivery of this Amendment No. 2 (including, without limitation, attorneys' fees).

8. GOVERNING LAW. THIS AMENDMENT NO. 2 SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK.

9. Headings. Section headings in this Amendment No. 2 are included herein for convenience of reference only and shall not constitute a part of this Amendment No. 2 for any other purpose.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Amendment No. 2 has been duly executed as of the date first written above.

CEMEX, S.A.B. DE C.V.,
as Borrower

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

IN WITNESS WHEREOF, this Amendment No. 2 has been duly executed as of the date first written above.

CEMEX MÉXICO, S.A. DE C.V.,
as Guarantor

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-Fact

IN WITNESS WHEREOF, this Amendment No. 2 has been duly executed as of the date first written above.

BANCO BILBAO VIZCAYA ARGENTARIA,
S.A., NEW YORK BRANCH,
as Lender

By /s/ Rodolfo Hare
Name: Rodolfo Hare
Title: Vice President, Global Corporate Banking

By /s/ Guillerme Gobbo
Name: Guillerme Gobbo
Title: Vice President, Global Corporate Banking

EXHIBIT A

(1) Amended and Restated Credit Agreement, dated as of June 6, 2005, by and among CEMEX S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V. and Empresas Tolteca de México S.A. de C.V., as guarantors, Barclays Bank PLC, New York Branch, as issuing bank and documentation agent, ING Bank N.V., as issuing bank, the several lenders party thereto, and Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint bookrunner, Citigroup Global Markets Inc., as joint bookrunner and syndication agent, and ING Capital LLC, as joint bookrunner and administrative agent, for an aggregate principal amount of U.S.$700,000,000, as amended by Amendment No. 1 thereto, dated as of June 21, 2006, the Amendment and Waiver Agreement, dated as of December 1, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of December 19, 2008.

(2) Credit Agreement, dated as of May 31, 2005, by and among CEMEX S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V. and Empresas Tolteca de México S.A. de C.V., as guarantors, the several lenders party thereto, Barclays Bank PLC, New York Branch, as administrative agent, Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner, for an aggregate principal amount of U.S.$1,200,000,000, as amended by Amendment No. 1 thereto, dated as of June 19, 2006, the Amendment and Waiver Agreement, dated as of November 30, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Limited Waiver Agreement, dated as of November 30, 2007 and the Fourth Amendment to Credit Agreement, dated as of December 19, 2008.

(3) Amended and Restated Facilities Agreement, dated as of December 19, 2008, by and among New Sunward Holding B.V., as borrower, CEMEX S.A.B. de C.V., CEMEX México S.A. de C.V. and Empresas Tolteca de México S.A. de C.V., as original guarantors, Banco Bilbao Vizcaya Argentaria, S.A., BNP Paribas and Citigroup Global Markets, Inc., as arrangers, and Citibank, N.A. as agent and on behalf of the finance parties, for an aggregate principal amount of U.S.$700,000,000.

(4) Senior Unsecured Maturity Loan "A" Agreement, dated as of December 31, 2008, by and among NSH, as borrower, CEMEX S.A.B. de C.V., and CEMEX México S.A. de C.V., as guarantors, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto, for an aggregate principal amount of U.S.$525,000,000.

(5) Senior Unsecured Maturity Loan "B" Agreement, dated as of December 31, 2008, by and among NSH, as borrower, CEMEX S.A.B. de C.V., and CEMEX México S.A. de C.V., as guarantors, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto, for an aggregate principal amount of U.S.$525,000,000.

EXHIBIT 4.28

U.S.$437,500,000
MXP4,773,282,950

CREDIT AGREEMENT

among

CEMEX, S.A.B. de C.V.,
as Borrower

and

CEMEX MÉXICO, S.A. de C.V.,
as Guarantor

and

CEMEX CONCRETOS, S.A. de C.V.,
as Guarantor

and

The Several Lenders Party Hereto,
as Lenders

and

BBVA BANCOMER, S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BBVA BANCOMER,
as Administrative Agent

and

BBVA BANCOMER, S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BBVA BANCOMER,

CITIGROUP GLOBAL MARKETS INC.,

HSBC SECURITIES (USA) INC.,

SANTANDER INVESTMENT SECURITIES INC., AND

THE ROYAL BANK OF SCOTLAND PLC
as Joint Arrangers and Joint Bookrunners

Dated as of January 27, 2009

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SCHEDULES

EXHIBITS

CREDIT AGREEMENT

CREDIT AGREEMENT, dated as of January 27, 2009 among **CEMEX, S.A.B. de C.V.**, a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States (the "Borrower"), **CEMEX MÉXICO, S.A. de C.V.**, a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States, **CEMEX CONCRETOS, S.A. de C.V.**, a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States (each a "Guarantor" and together, the "Guarantors"), the several Lenders party hereto, **BBVA BANCOMER, S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BBVA BANCOMER**, as Administrative Agent, and **BBVA BANCOMER, S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BBVA BANCOMER, CITIGROUP GLOBAL MARKETS INC., HSBC SECURITIES (USA) INC., SANTANDER INVESTMENT SECURITIES INC., AND THE ROYAL BANK OF SCOTLAND PLC**, each a Joint Arranger and Joint Bookrunner.

RECITALS

WHEREAS, the Borrower desires that the Lenders extend an unsecured multi-currency term loan facility to the Borrower to fund the repayment of certain indebtedness of the Borrower with the Lenders;

WHEREAS, the Guarantors are willing to guaranty all of the Obligations of the Borrower.

NOW, THEREFORE, each of the Parties hereto hereby agrees as follows:

ARTICLE I
DEFINITIONS

1.01. Certain Definitions. As used in this Agreement, the following terms shall have the following meanings:

"2009 Amortization" has the meaning specified in Section 2.01(f)(i).

"2010 Amortization" has the meaning specified in Section 2.01(f)(i).

"Acquired Debt" means, with respect to any specified Person, Debt of any other Person existing at the time such Person becomes a Subsidiary of such specified Person or assumed in connection with the acquisition of assets from such Person.

"Acquired Subsidiary" means any Subsidiary acquired by the Borrower or any other Subsidiary after the date hereof in an Acquisition, and any Subsidiaries of such Acquired Subsidiary on the date of such Acquisition.

"Acquiring Subsidiary" means any Subsidiary of the Borrower or any one of its Subsidiaries solely for the purpose of participating as the acquiring party in any Acquisition, and any Subsidiaries of such Acquiring Subsidiary acquired in such Acquisition.

"Acquisition" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if upon the completion of such transaction or transactions, the Borrower or any Subsidiary thereof has acquired an interest in assets comprising all or substantially all of an operating unit, division or line of business or in any Person who is deemed to be a Subsidiary under this Agreement and was not a Subsidiary prior thereto.

"Adjusted Consolidated Net Tangible Assets" means, with respect to any Person, the total assets of such Person and its Subsidiaries (less applicable depreciation, amortization and other valuation reserves), including any write-ups or restatements required under Mexican FRS (other than with respect to items referred to in clause (ii) below), after deducting therefrom (i) all current liabilities of such Person and its Subsidiaries (excluding the current portion of long-term debt) and (ii) all goodwill, trade names, trademarks, licenses, concessions, patents, unamortized debt discount and expense and other intangibles, all as determined on a consolidated basis in accordance with Mexican FRS.

"Administrative Agency Fee Letter" means the fee letter entered into by the Administrative Agent and the Borrower dated December 17, 2008.

"Administrative Agent" means BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, in its capacity as administrative agent for the Lenders, and its successors in such capacity.

"Administrative Agent's Mexico Account" means account number: 2277-00007-9, held with Banco de México, with BBVA Bancomer, S.A. as beneficiary, or such other account as the Administrative Agent may designate.

"Administrative Agent's New York Account" means account number: 400001942, account name: BBVA Bancomer, S.A. Mexico D.F., ABA number: 021 000 021, held with JP Morgan Chase, New York, 270 Park Avenue, New York 10017, USA, Attn: Concepción Zúñiga, or such other account as the Administrative Agent may designate.

"Affected Lender" has the meaning specified in Section 3.09(a).

"Affiliate" means, in relation to any Person, a Subsidiary of that Person or a Holding Company of that Person or any other Subsidiary of that Holding Company.

"Aggregate Committed Amount" means the Aggregate Tranche A Committed Amount, and the Aggregate Tranche B Committed Amount.

"Aggregate Exposure" means the Tranche A Aggregate Exposure and the Tranche B Aggregate Exposure.

"Aggregate Tranche A Committed Amount" means the aggregate amount of all of the Tranche A Commitments.

"Aggregate Tranche B Committed Amount" means the aggregate amount of all of the Tranche B Commitments.

"Agreement" means this Credit Agreement, as the same may hereafter be amended, supplemented or otherwise modified from time to time.

"Applicable GAAP" means, with respect to any Person, Mexican FRS or other generally accepted accounting principles required to be applied to such Person in the jurisdiction of its incorporation or organization, and used in preparing such Person's financial statements.

"Applicable Margin" means at any date, the applicable margin set forth below:

Applicable Margin		
Base Rate Loans	**LIBOR Loans**	**Mexican-Rate Loans**
3.00%	3.00%	2.50%

"Asset Sales" means the Disposition by the Borrower or any of its Subsidiaries of any asset or property of the Borrower or any Subsidiary.

"Asset Swap Transaction" means a Disposition by the Borrower or any of its Subsidiaries of any asset, property or cash consideration in exchange for assets, property or cash consideration which relate to the business of the CEMEX Group.

"Assignee" has the meaning specified in Section 13.06(b).

"Assignment and Assumption Agreement" means an assignment and assumption agreement in substantially the form of Exhibit D.

"Base Rate" means, for any day, the higher of (a) the Prime Rate or (b) the Federal Funds Rate plus 1/2% per annum, in each case as in effect for such day. Any change in the Prime Rate announced by the Reference Banks shall take effect at the opening of business on the day specified in the public announcement of such change.

"Base Rate Loan" means any Loan made or maintained at a rate of interest calculated with reference to the Base Rate.

"Borrower" has the meaning specified in the preamble hereto.

"Borrowing" means the aggregate amount of Loans hereunder to be made to the Borrower pursuant to Article II on the Disbursement Date by the Lenders.

"Borrowing Request" means a Notice of Borrowing.

"Business Day" means any day other than a Saturday or Sunday or other day on which commercial banks in New York City or Mexico City are authorized or required by law to close and, if such day relates to any LIBOR Loan, means any such day on which dealings in Dollar deposits are conducted by and between banks in the London interbank market, and, if such day relates to any Mexican-Rate Loan or the Exchange Rate, means any such day on which dealings in Pesos deposits are conducted by and between banks in the Mexican interbank market.

"Capital Expenditure" means, for any period, (a) the additions to property, plant and equipment and other capital expenditures of the Borrower and its Subsidiaries that are (or should be) set forth in a consolidated statement of cash flows of the Borrower for such period prepared in accordance with Mexican FRS and (b) any Capital Leases incurred by the Borrower and its Subsidiaries during such period.

"Capital Lease" means, as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and

accounted for as capital leases on a balance sheet of such Person under Mexican FRS and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with Mexican FRS.

"Capital Stock" means any and all shares, interests, participations or other equivalents (however designed) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

"CCP" has the meaning specified in Section 3.07(b).

"CEMEX España 2009 Facility" means that certain loan facility to be dated on or about the date of this Agreement, among CEMEX España S.A. as borrower, CEMEX Inc. and CEMEX Australia Holdings Pty Ltd. as guarantors, the several lenders party thereto and The Royal Bank of Scotland plc as administrative agent.

"CEMEX España Tranche B Extension" means that on or before January 31, 2009, lenders under the CEMEX España Tranche B Facility agree to extend, to a maturity date on or after December 5, 2010, the loans outstanding under such facility.

"CEMEX España Tranche B Facility" means tranche B of that certain U.S.$9,000,000,000 acquisition facilities agreement dated 6 December 2006, as amended from time to time, between CEMEX España, S.A., as borrower, Citigroup Global Markets Limited, The Royal Bank of Scotland PLC and Banco Bilbao Vizcaya Argentaria, S.A. as mandated lead arrangers and joint bookrunners, the lenders party thereto and The Royal Bank of Scotland PLC as agent.

"CEMEX España Group" means CEMEX España, S.A. and its consolidated subsidiaries.

"CEMEX Group" means the Borrower and its consolidated Subsidiaries.

"Cetes Rate" has the meaning specified in Section 3.07(b).

"Commitment" means a Tranche A Commitment and, as the case may be, a Tranche B Commitment.

"Commitment Percentage" means a Tranche A Commitment Percentage and, as the case may be, a Tranche B Commitment Percentage.

"Commitment Period" means the period from and including the Effective Date to but excluding the earlier of (i) January 31, 2009, or (ii) the date on which the Commitments terminate in accordance with the provisions of this Agreement.

"Confidential Information" means information that the Borrower or a Guarantor furnishes to the Administrative Agent, the Joint Arrangers or any Lender in a writing designated as confidential, but does not include any such information that is or becomes generally available to the public or that is or becomes available to the Administrative Agent or the Joint Arrangers or such Lender from a source other than the Borrower or a Guarantor that is not, to the best of the Administrative Agent's, the Joint Arrangers' or such Lender's knowledge, acting in violation of a confidentiality agreement with the Borrower or Guarantor or any other Person.

"Consolidated" refers to the consolidation of accounts in accordance with Mexican FRS.

"Consolidated Fixed Charges" means, for any period, the sum (without duplication) of (a) Consolidated Interest Expense for such period and (b) to the extent not included in (a) above, payments during such period in respect of the financing costs of financial derivatives in the form of equity swaps.

"Consolidated Fixed Charge Coverage Ratio" means, for any Reference Period, the ratio of (a) EBITDA for such period to (b) Consolidated Fixed Charges for such period.

"Consolidated Interest Expense" means, for any period, the total gross interest expense of the Borrower and its consolidated Subsidiaries allocable to such period in accordance with Mexican FRS.

"Consolidated Net Debt" means, at any date, the sum (without duplication) of (a) the aggregate amount of all Debt of the Borrower and its Subsidiaries at such date, *plus* (b) to the extent not included in Debt, the aggregate amount of all derivative financing in the form of equity swaps outstanding at such date (except to the extent such exposure is cash collateralized) *minus* (c) all Temporary Investments (for the avoidance of doubt, net of any amounts pledged as cash collateral) of the Borrower and its Subsidiaries at such date.

"Consolidated Net Debt / EBITDA Ratio" means, on any date of determination, the ratio of (a) Consolidated Net Debt on such date to (b) EBITDA for the one (1) year period ending on such date (subject to adjustment as set forth in the definition of "EBITDA").

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any indenture, mortgage, deed of trust, loan agreement or other agreement to which such Person is a party or by which it or any of its property or assets is bound.

"Credit Party" means any of the Borrower or the Guarantors.

"Debt" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee under Capital Leases, (v) all Debt of others secured by a Lien on any asset of such Person, up to the value of such asset, as recorded in such Person's most recent balance sheet, (vi) all obligations of such Person with respect to product invoices incurred in connection with export financing, (vii) all obligations of such Person under repurchase agreements for the stock issued by such Person or another Person and (viii) all Guarantees of such Person in respect of any of the foregoing. For the avoidance of doubt, Debt does not include Derivatives or Qualified Receivables Transactions. With respect to the Borrower and its Subsidiaries, the aggregate amount of Debt outstanding shall be adjusted by the Value of Debt Currency Derivatives solely for the purposes of calculating the Consolidated Net Debt / EBITDA Ratio. If the Value of Debt Currency Derivatives is a positive mark-to-market valuation for the Borrower and its Subsidiaries, then Debt shall decrease accordingly, and if the Value of Debt Currency Derivatives is a negative mark-to-market valuation for the Borrower and its Subsidiaries, then Debt shall increase by the absolute value thereof.

"Debt Currency Derivatives" means derivatives of the Borrower and its subsidiaries related to currency entered into for the purposes of hedging exposures under outstanding Debt of the Borrower and its subsidiaries, including but not limited to cross-currency swaps and currency forwards.

"Default" means any condition, event or circumstance which, with the giving of notice or lapse of time or both, would, unless cured or waived, become an Event of Default.

"Defaulting Lender" has the meaning specified in Section 2.01(d).

"Derivatives" means any type of derivative obligations, including but not limited to equity forwards, capital hedges, cross-currency swaps, currency forwards, interest rate swaps and swaptions.

"Disbursement Date" means a single Business Day during the Commitment Period on which the Loans are made by the Lenders pursuant to Section 2.01(a).

"Discontinued EBITDA" means, for any period, the sum for Discontinued Operations of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Mexican FRS consistently applied for such period.

"Discontinued Operations" means operations that are accounted for as discontinued operations pursuant to Mexican FRS for which the Disposition of such assets has not yet occurred.

"Disposition" means, with respect to any property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof. The terms "Dispose" and "Disposed of" shall have correlative meanings.

"Dollar Amount" shall mean, at any time with respect to any Loan, (a) with respect to Dollars or an amount denominated in Dollars, such amount and (b) with respect to an amount of Pesos or an amount denominated in Pesos, the equivalent amount thereof in Dollars as determined by the Administrative Agent on the basis of the Exchange Rate as of the most recent Revaluation Date for the purchase of Dollars with Pesos.

"Dollars", "$" and "U.S.$" each means the lawful currency of the United States.

"EBITDA" means, for any period, the sum for the Borrower and its Subsidiaries, determined on a consolidated basis of (a) operating income (*utilidad de operación*), (b) cash interest income and (c) depreciation and amortization expense, in each case determined in accordance with Mexican FRS, subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA for any applicable period pursuant to any determination of the Consolidated Net Debt / EBITDA Ratio (but not the Consolidated Fixed Charge Coverage Ratio): (A) (i) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Disposition, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such applicable period (but when the Material Disposition is by way of lease, income received by the Borrower or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such

applicable period the Borrower or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving pro forma effect thereto (including the incurrence or assumption of any Debt) as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any Person that subsequently shall have become a Subsidiary or was merged or consolidated with the Borrower or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Disposition or Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Borrower or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving pro forma effect thereto as if such Disposition or Acquisition had occurred on the first day of such applicable period; and (B) all EBITDA for each applicable period ending on or after December 31, 2008 will be recalculated by multiplying each month's EBITDA by the Ending Exchange Rate and dividing the amount obtained thereto by the exchange rate used by the Borrower in preparation of its monthly financial statements in accordance with Mexican FRS to convert U.S.$ into Pesos (such recalculated EBITDA being the "Recalculated EBITDA"), *provided that*, the Required Lenders shall have the option, with respect to any Reference Period ending after December 31, 2009, to discontinue the incorporation of Recalculated EBITDA into the Consolidated Net Debt/EBITDA Ratio (the "Discontinue Option"). The Required Lenders may exercise the Discontinue Option upon notice to the Administrative Agent, who shall, acting upon the instructions of the Required Lenders, notify the Borrower of such exercise in writing (the " Notice of Discontinuance") at least thirty (30) days prior to the end of the Reference Period. Subject to the foregoing notice requirements, such Discontinue Option shall be effective for each Reference Period ending after the date of such Notice of Discontinuance to the Borrower as set forth herein.

"Effective Date" has the meaning specified in Section 4.01.

"Ending Exchange Rate" means the exchange rate at the end of a Reference Period for converting U.S.$ into Pesos, used by the Borrower and its auditors in preparation of the Borrower's financial statements in accordance with Mexican FRS.

"Environmental Action" means any audit procedure, action, suit, demand, demand letter, claim, notice of non-compliance or violation, notice of liability or potential liability, investigation, proceeding, consent order or consent agreement relating in any way to any Environmental Law, Environmental Permit or Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment, including (a) by any Governmental Authority for enforcement, cleanup, removal, response, remedial or other actions or damages and (b) by any Governmental Authority or any third party for damages, contribution, indemnification, cost recovery, compensation or injunctive relief.

"Environmental Law" means any federal, state, local or foreign statute, law, ordinance, rule, regulation, technical standard (*norma técnica* or *norma oficial Mexicana*), code, order, judgment, decree or judicial agency interpretation, policy or guidance relating to pollution or protection of the environment, health, safety or natural resources, including those relating to the use, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials.

"Environmental Permit" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"ERISA" means the U.S. Employee Retirement Income Security Act of 1974, as amended, and any successor statute thereto, as interpreted by the rules and regulations thereunder, all as the same may be in effect from time to time. References to sections of ERISA shall be construed also to refer to any successor sections.

"ERISA Affiliate" means an entity, whether or not incorporated, that is under common control with the Borrower within the meaning of Section 4001(a)(14) of ERISA, or is a member of a group that includes the Borrower and that is treated as a single employer under Sections 414(b) or (c) of the U.S. Internal Revenue Code.

"Event of Default" has the meaning specified in Section 10.01.

"Exchange Rate" shall mean as of any date, the Peso/Dollar exchange rate published by *Banco de México* in the *Diario Oficial de la Federación* as the rate "*para solventar obligaciones denominadas en moneda extranjera pagaderas en la República Mexicana* " on the Business Day immediately prior to the relevant calculation date to be in effect on such calculation date; *provided that* if *Banco de México* ceases to publish such exchange rate, the Exchange Rate shall equal the Peso/Dollar average exchange rates published by *Banco Nacional de México, S.A., BBVA Bancomer, S.A., and Banco Santander (México), S.A.* at the close of business on the Business Day immediately prior to the relevant calculation date (i.e., twenty-four (24) hours forward), to be in effect on such calculation date.

"Excluded Asset Sales" means, the Disposition of (a) inventory, trade receivables and assets no longer required for the business of the relevant CEMEX Group company; (b) assets in the ordinary course of trading (including, but not limited to, the Disposition of cash equivalents, Dispositions resulting from lawsuits or similar proceedings, Disposition of leases in the ordinary course of business and the Disposition of inventory); (c) assets located in Hungary or Austria or owned or operated by companies within the CEMEX España Group who are located in Hungary or Austria; (d) any assets pursuant to a Qualified Receivables Transaction up to an aggregate amount equal to the aggregate amount, in U.S.$, set forth in Schedule 1.01(d); (e) assets of one CEMEX Group company to another CEMEX Group company; (f) assets by way of an Asset Swap Transaction or other similar arrangement, *provided that*, if any Asset Swap Transaction is made for partial cash consideration, the amount of such cash consideration shall not form part of the Excluded Asset Sales, and shall be applied as cash proceeds in prepayment of the Loans in accordance with Section 2.01(h); (g) marketable securities; and (h) any assets or shares where the proceeds from such Disposition are equal to or less than an aggregate principal amount of US$20,000,000 (or the equivalent in other currencies) in any fiscal year.

"Existing Bilateral Facilities" means those certain bilateral facilities entered into with the Borrower as set forth in Schedule 1.01(e).

"Extended Termination Date" has the meaning specified in Section 3.13.

"Extension Consent" has the meaning specified in Section 3.13.

"Extension Consent Date" has the meaning specified in Section 3.13.

"Extension Request Date" has the meaning specified in Section 3.13.

"Federal Funds Rate" means, for any relevant day, the overnight Federal funds rate as published for such day in the Federal Reserve Statistical Release H.15 (519) or any successor

publication, or, if such rate is not published for any day, the rate for such day will be the rate set forth in the daily statistical release designated as the Composite 3:30 p.m. Quotation for U.S. Government Securities, or any successor publication, published by the Federal Reserve Bank of New York (including any such successor, the "Composite 3:30 p.m. Quotation" for such day under the caption "Federal Funds Effective Rate"). If on any relevant day the appropriate rate for such previous day is not yet published in either H.15 (519) or the Composite 3:30 p.m. Quotations, the rate for such day will be the arithmetic mean as determined by the Administrative Agent of the rates for the last transaction in overnight Federal funds arranged prior to 9:00 a.m. (New York City time) on that day by each of three leading brokers of recognized standing of Federal funds transactions in New York City selected by the Administrative Agent.

"Federal Reserve Board" means the Board of Governors of the Federal Reserve System of the United States.

"Fee Letters" means the Administrative Agency Fee Letter and the mandate letter dated December 23, 2008 by and between the Borrower and the Joint Arrangers.

"Foreign Financial Institution" means an institution registered as a foreign financial institution with the Ministry of Finance in the Mexican Banking and Financial Institutions, Pensions, Retirement and Foreign Investment Funds Registry for purposes of Article 195, Section I of the Mexican Income Tax Law.

"Funding Default" means a default by a Lender pursuant to Section 2.01(d).

"Funding Losses" has the meaning specified in Section 3.06.

"Governmental Authority" means any branch of power or government or any state, department or other political subdivision thereof, or any governmental body, agency, authority (including any central bank or taxing or environmental authority), any entity or instrumentality (including any court or tribunal) exercising executive, legislative, judicial, regulatory, administrative or investigative functions of or pertaining to government.

"Guarantee" means, as applied to any Debt of another Person, (i) a guarantee, direct or indirect, in any manner, of any part or all of such Debt and (ii) any direct or indirect obligation, contingent or otherwise, of a Person guaranteeing or having the effect of guaranteeing the Debt of any other Person in any manner (and "Guaranteed" and "Guaranteeing" shall have meanings that correspond to the foregoing).

"Guarantor" has the meaning specified in the preamble hereto.

"Hazardous Materials" means (a) radioactive materials, asbestos-containing materials, polychlorinated biphenyls, radon gas and (b) any other chemicals, materials or substances designated, classified or regulated as hazardous or toxic or as a pollutant or contaminant under any applicable Environmental Law.

"Holding Company" means, in relation to a company or a corporation, any other company or corporation in respect of which it is a Subsidiary.

"IFRS" means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

"Incur" means, with respect to any Debt of any Person, to create, issue, incur (by conversion, exchange or otherwise), assume, Guarantee or otherwise become liable in respect of such Debt or the recording, as required pursuant to Mexican FRS or otherwise, of any such Debt on the balance sheet of such Person. Debt otherwise Incurred by a Person before it becomes a Subsidiary of the Borrower shall be deemed to be Incurred at the time at which such Person becomes a Subsidiary of the Borrower. "Incurrence," "Incurred," "Incurrable" and "Incurring" shall have meanings that correspond to the foregoing.

"Indemnified Party" has the meaning specified in Section 13.05.

"Interest Payment Date" means (i) with respect to a Base Rate Loan or a LIBOR Loan, the last Business Day of each February, May, August and November, the date of repayment of such Loan, in the case of a conversion of a Base Rate Loan into a LIBOR Loan, or *vice versa*, the date of such conversion and the Termination Date and (ii) with respect to a Mexican-Rate Loan, the last Business Day of each month, the date of repayment of such Loan and the Termination Date, *provided that* the first Interest Payment Date for Mexican-Rate Loans shall be the last Business Day in February 2009.

"Interest Period" means, with respect to a LIBOR Loan or Mexican-Rate Loan, (i) the period commencing on the date such Loan is made (or, in the case of a conversion of a Base Rate Loan into a LIBOR Loan, the date of conversion) and ending on the next succeeding Interest Payment Date for such Loan and (ii) each successive period thereafter commencing on the immediately preceding Interest Payment Date for such Loan and ending on the next succeeding Interest Payment Date for such Loan.

"Investment" by the Borrower or its Subsidiaries means, any direct or indirect capital contribution (by means of any transfer of cash) to another Person which is not the Borrower or its Subsidiaries, not constituting an Acquisition.

"Joint Arrangers" means each of BBVA Bancomer, S.A. Institucíon de Banca Múltiple, Grupo Financiero BBVA Bancomer, Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Santander Investment Securities Inc., and The Royal Bank of Scotland PLC, in their capacity as joint arrangers hereunder, and each of their successors in such capacity.

"Lender" means each Tranche A Lender and/or, as the case may be, each Tranche B Lender.

"Lending Office" means, with respect to any Lender, (a) the office or offices of such Lender specified as its " Lending Office" or "Lending Offices" in Schedule 1.01(b) or (b) such other office or offices of such Lender as it may designate as its Lending Office by notice to the Borrower and the Administrative Agent.

"LIBOR" means, in relation to any Loan denominated in Dollars:

(a) the applicable Screen Rate; or

(b) (if no Screen Rate is available for the currency or Interest Period of that Loan) the arithmetic mean of the rates (rounded upwards to four (4) decimal places) as supplied to the Administrative Agent at its request quoted by the Reference Banks to leading banks in the London interbank market,

as of approximately 11:00 a.m. (New York City time) on the Quotation Day for the offering of deposits in the currency of that Loan and for a period comparable to the Interest Period for that Loan.

"LIBOR Loan" means any Loan made or maintained at a rate of interest calculated with reference to LIBOR.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. The Borrower or any Subsidiary of the Borrower shall be deemed to own, subject to a Lien, any asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capital Lease or other title retention lease relating to such asset, or any account receivable transferred by it with recourse (including any such transfer subject to a holdback or similar arrangement that effectively imposes the risk of collectability on the transferor).

"Loans" means Tranche A Loans and Tranche B Loans.

"Material Acquisition" any (a) acquisition of property or series of related acquisitions of property that constitutes assets comprising all or substantially all of an operating unit, division or line of business or (b) acquisition of or other investment in the Capital Stock of any Subsidiary or any Person which becomes a Subsidiary or is merged or consolidated with the Borrower or any of its Subsidiaries, in each case, which involves the payment of consideration by the Borrower and its Subsidiaries in excess of U.S.$25,000,000 (or the equivalent in other currencies).

"Material Adverse Effect" means a material adverse effect on (a) the business, condition (financial or otherwise), operations, performance, properties or prospects of the Borrower and its Subsidiaries taken as a whole, (b) the validity or enforceability of this Agreement or any of the Notes or the rights and remedies of the Administrative Agent or any Lender under this Agreement or any of the Notes or (c) the ability of the Borrower and/or the Guarantors to perform their Obligations under this Agreement, the Notes, the Fee Letters, any Notice of Borrowings, any certificates, waivers, or any other agreement delivered pursuant to this Agreement.

"Material Debt" means Debt (other than the Loans) of the Borrower and/or one or more of its Subsidiaries, arising in one or more related or unrelated transactions, in an aggregate principal amount outstanding exceeding U.S.$50,000,000 (or the equivalent thereof in other currencies).

"Material Disposition" means any Disposition of property or series of related Dispositions of property that yields gross proceeds to the Borrower or any of its Subsidiaries in excess of U.S.$25,000,000 (or the equivalent in other currencies).

"Material Subsidiary" means, at any date, (a) each Subsidiary of the Borrower (if any) (i) the assets of which, together with those of its Subsidiaries, on a consolidated basis, without duplication, constitute five percent (5%) or more of the consolidated assets of the Borrower and its Subsidiaries as of the end of the then most recently ended Quarterly Period for which quarterly financial statements have been prepared or (ii) the operating profit of which, together with that of its Subsidiaries, on a consolidated basis, without duplication, constitutes five percent (5%) or more of the consolidated operating profit of the Borrower and its Subsidiaries for the then most recently ended Quarterly Period for which quarterly financial statements have been prepared and (b) each Guarantor.

"Mexican FRS" means, Mexican Financial Reporting Standards (*Normas de Información Financiera*) as in effect from time to time and consistent with those used in the preparation of the most recent audited financial statements referred to in Section 7.01; *provided*, *however* that for purposes of Section 8.01, Mexican FRS means Mexican Financial Reporting Standards as in effect on December 31, 2008. In the event that any change in Mexican FRS shall occur, or the Borrower shall decide to or be required to change to IFRS, and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, then the Borrower and the Administrative Agent agree to enter into negotiations in order to amend such provisions of this Agreement so as to equitably reflect such change in Mexican FRS with the desired result that the criteria for evaluating the Borrower's financial condition shall be the same after such change as if such change had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrower, the Administrative Agent and the Required Lenders, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such change in Mexican FRS had not occurred.

"Mexican-Rate Loan" means any Loan made or maintained at a rate of interest calculated with reference to TIIE.

"Mexico" means the United Mexican States.

"Ministry of Finance" means the Ministry of Finance and Public Credit of Mexico.

"Net Cash Proceeds" means, (a) with respect to any Asset Sale, the cash proceeds received by the Borrower or any Subsidiary (including cash proceeds subsequently received (as and when received) in respect of non-cash consideration initially received), net of (i) the direct costs relating to such Asset Sale (including, without limitation, broker's fees or commissions, legal fees, accounting and investment banking fees, relocation expenses and transfer and similar taxes), (ii) income taxes paid, and the Borrower's good faith estimate of income taxes payable in connection with such sale, (iii) any deduction of appropriate amounts to be provided by the Borrower or a Subsidiary as a reserve in accordance with Applicable GAAP against liabilities associated with the asset disposed of and retained by the Borrower or such Subsidiary after such sale, and (iv) reasonable holdbacks with respect to indemnification obligations or purchase price adjustments pending receipt thereof; and (b) with respect to any Securities Issuance, the cash proceeds thereof, net of the direct costs of such Securities Issuance, including without limitation, all customary accounting, legal and investment banking fees, commissions, costs and other expenses incurred in connection therewith.

"Note" means a promissory note of the Borrower in substantially the form of Exhibit A-1 or A-2, as applicable, evidencing the obligation of the Borrower to repay the Loans made by a Lender.

"Notice of Borrowing" has the meaning specified in Section 2.01(c).

"Notice of Extension/Conversion" has the meaning specified in Section 2.01(e).

"Obligations" means, (a) with respect to the Borrower, all of its indebtedness, obligations and liabilities to the Lenders, the Joint Arrangers and the Administrative Agent now or in the future existing under or in connection with the Transaction Documents, whether direct or indirect, absolute or contingent, due or to become due, and (b) with respect to each Guarantor, all of its indebtedness, obligations and liabilities to the Lenders, the Joint Arrangers and the Administrative Agent now or in the future existing under or in connection with the Transaction Documents, in each case whether direct or indirect, absolute or contingent, due or to become due.

"Obligors" means the Borrower and each Guarantor.

"Ordinary Course Loans" means a loan or advance: (i) made by the Borrower or any of its Subsidiaries to a supplier, vendor, customer or other similar counterparty; (ii) which is due and payable not more than eighteen (18) months after being made (and where the Debt being Incurred to fund such loan or advance has a weighted average life to maturity that is greater than such loan or advance); (iii) made on terms and under circumstances consistent with past practices of the Borrower or such Subsidiary; and (iv) the aggregate principal amount of which, when added to all other such loans and advances, does not exceed at any time $75,000,000 (or the equivalent in other currencies).

"Other Taxes" means any present or future stamp or documentary taxes or any other excise or property taxes, charges, imposts, duties, fees, or similar levies which arise from any payment made hereunder or under the Notes or from the execution, delivery, registration, performance or enforcement of, or otherwise with respect to, this Agreement or any other Transaction Document and which are imposed, levied, collected or withheld by any Governmental Authority.

"Participant" has the meaning specified in Section 13.06(d).

"Pension Plan" means a "pension plan", as such term is defined in Section 3(2) of ERISA, which is subject to Title IV of ERISA (other than a multiemployer plan as defined in Section 4001(a)(3) of ERISA), and to which any Credit Party or any of its ERISA Affiliates has any liability.

"Permitted Debt" means, any Debt:

(a) the net proceeds of which are applied to repay, prepay or discharge the Loans or other Debt existing as at the date of such Incurrence and associated costs and expenses, so long as either: (i) the weighted average life to maturity of such new Debt is not less than the remaining weighted average life to maturity of the Debt being repaid, prepaid or otherwise discharged and the proceeds of such new Debt are applied towards such repayment, prepayment or other discharge within fifteen (15) days of such Incurrence; or (ii) such new Debt is incurred under a liquidity facility or facilities in an aggregate principal amount not exceeding U.S.$600,000,000 outstanding at any time, *provided that* the proceeds of such new Debt are used to repay, prepay or otherwise discharge Debt outstanding on the Effective Date (including any such Debt that has been refinanced) within fifteen (15) days of the Incurrence of such new Debt;

(b) the net proceeds of which are applied to pay obligations of the Borrower and/or its Subsidiaries arising under written agreements existing on the Effective Date, excluding obligations in respect of Capital Expenditures, Restricted Payments and Investments;

(c) the net proceeds of which are applied for Capital Expenditures (i)(A) made from January 1, 2009 until December 31, 2009 in an aggregate amount per annum not to exceed U.S.$60,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing and (B) U.S.$40,000,000 (or the equivalent in other currencies) in all other cases; and (ii)(A) made from January 1, 2010 until December 31, 2010 and from January 1, 2011 until December 31, 2011, in each case in an aggregate amount per annum not to exceed

U.S.$40,000,000 (or the equivalent in other currencies) if such Permitted Debt is Incurred in an export credit financing and (B) U.S.$60,000,000 (or the equivalent in other currencies) in all other cases; *provided that* any Debt Incurred pursuant to this clause has a weighted average life to maturity that is greater than the remaining weighted average life to maturity of the Debt under this Agreement;

(d) the net proceeds of which are applied to satisfy obligations of the Borrower or any of its Subsidiaries arising in the ordinary course of business of such Person, excluding obligations in respect of (i) Capital Expenditures, (ii) Restricted Payments, (iii) Acquisitions, (iv) Investments, and (v) loans and advances made or to be made by such Person, other than Ordinary Course Loans;

(e) owed to the Borrower or any of its consolidated Subsidiaries;

(f) which has become Debt solely due to a change in Mexican FRS;

(g) to the extent resulting from the closing of, or funding under the CEMEX España 2009 Facility, in an aggregate amount of up to U.S.$2,000,000,000 (or the equivalent thereof in other currencies) so long as the net proceeds of which are applied to repay, repay or discharge existing Debt arising under bilateral loan agreements; or

(h) any Guarantee Incurred by the Borrower or any of its Subsidiaries for any of the Debt referred to in paragraphs (a) to (g) above.

"Permitted Liens" has the meaning specified in Section 8.02.

"Person" means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture or other business entity or Governmental Authority, whether or not having a separate legal personality.

"Pesos" or "MXP" means the lawful money of Mexico.

"Prime Rate" means the average of the rate of interest publicly announced by each of the Reference Banks from time to time as its Prime Rate in New York City, the Prime Rate to change as and when such designated rate changes. The Prime Rate is not intended to be the lowest rate of interest charged by the Administrative Agent or any Lender in connection with extensions of credit to debtors of any class, or generally.

"Process Agent" has the meaning specified in Section 13.12(a).

"Qualified Receivables Transaction" means a sale, transfer, or securitization of receivables and related assets by the Borrower or its Subsidiaries, including a sale at a discount, provided that (i) such receivables have been sold, transferred or otherwise conveyed, directly or indirectly, by the originator thereof in a manner that satisfies the requirements for a sale, transfer or other conveyance under the laws and regulations of the jurisdiction in which such originator is organized; (ii) at the time of the sale, transfer or securitization of receivables is put in place, the receivables are derecognized from the balance sheet of the Borrower or its Subsidiary in accordance with the generally accepted accounting principles applicable to such Person in effect as at the date of such sale, transfer or securitization; and (iii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or securitization is carried out on a non-recourse basis or on a basis where recovery is limited to the collection of receivables.

"Quarterly Period" means a fiscal quarter of each year, as follows: January 1 through March 31, April 1 through June 30, July 1 through September 30 and October 1 through December 31.

"Quotation Day" means, in relation to any period in which an interest rate for Dollars is to be determined, two (2) Business Days before the first day of that period.

"Reference Banks" means two banks in the London interbank market, initially Citibank, N.A., and JPMorgan Chase Bank.

"Reference Period" means a period of four consecutive Quarterly Periods.

"Regulation T, U, or X" means Regulation T, U, or X, respectively, of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof.

"Required Lenders" means, at any time, Lenders (other than Defaulting Lenders) whose Aggregate Exposures, when aggregated, equal or exceed 50.01% of the Aggregate Committed Amount (or, if the Commitments shall have terminated, the Aggregate Exposures of all Lenders) minus the Aggregate Exposure of any Defaulting Lender at such time.

"Requirement of Law" means, as to any Person, any law, ordinance, rule, regulation or requirement of any Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Responsible Officer" of any Person means the Chief Financial Officer, the Corporate Planning and Finance Director, the Corporate Financing Director or the Comptroller of such Person.

"Restricted Payment" means any cash dividend or other cash distribution with respect to any Capital Stock of the Borrower, or any cash payment, including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Capital Stock, or on account of any return of capital to the Borrower's stockholders.

"Revaluation Date" means each of the following: (a) in connection with the making of any Loan, the Business Day which is the earliest of the date such Loan is made or the date the rate is set, as applicable; (b) in connection with any extension or conversion or continuation of an existing Loan, the Business Day that is the earlier of the date such Loan is extended, converted or continued, or the date the rate is set, as applicable, in connection with any extension, conversion or continuation; (c) the date of any reduction of the Aggregate Committed Amount; and (d) such additional dates as the Administrative Agent or the Required Lenders shall deem necessary.

"Screen Rate" means in relation to LIBOR, the British Bankers Association Interest Settlement Rate for the relevant currency and period, displayed on the appropriate page of the Reuters screen. If the agreed page is replaced or service ceases to be available, the Administrative Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower and the Lenders.

"Securities Issuance" means any issuance or sale by the Borrower or any of its subsidiaries of unsecured long-term debt securities of the Borrower or any such Subsidiary.

"Solvent" means, with respect to any Person, that such Person (a) owns and will own assets the fair saleable value of which are (i) greater than the total amount of its debts and liabilities, subordinated, contingent or otherwise; and (ii) greater than the amount that will be required to pay the probable liabilities of its then existing debts, as such debts become absolute and matured and considering all financing alternatives and potential asset sales reasonably available to it; (b) has capital that is not unreasonably small in relation to its business as presently conducted and as proposed to be conducted following the Effective Date; (c) does not intend to incur and does not believe that it will incur debts beyond its ability to pay such debts as they become due; and (d) is not, or is not deemed to be, in general default of its obligations pursuant to the Mexican Ley de Concursos Mercantiles. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability. For the purposes of this definition "fair saleable value" means the aggregate amount of net consideration (giving effect to reasonable and customary costs of sale and taxes) that could be expected to be realized if the aggregate assets of the applicable entity are sold with reasonable promptness in an arm's length transaction under present conditions for the sale of assets of comparable business enterprises.

"Subsidiary" means with respect to any Person, any corporation, partnership, joint venture, limited liability company, trust, estate or other entity of which (or in which) more than fifty percent (50%) of (a) in the case of a corporation, the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency not in the control of such Person), (b) in the case of a limited liability company, partnership or joint venture, the interest in the capital or profits of such limited liability company, partnership or joint venture or (c) in the case of a trust or estate, the beneficial interest in such trust or estate, is at the time directly or indirectly owned or controlled by (X) such Person, (Y) such Person and one or more of its other Subsidiaries or (Z) one or more of such Person's other Subsidiaries.

"Substitute Lender" means a commercial bank or other financial institution, acceptable to the Borrower, the Lenders and the Administrative Agent, each in its sole discretion, and approved by the Joint Arrangers (including such a bank or financial institution that is already a Lender hereunder), which assumes all or a portion of the Commitment of a Lender pursuant to the terms of this Agreement.

"Taxes" means any and all present or future income, stamp, sales or other taxes, levies, imposts, duties, deductions, fees, charges or withholdings, and all liabilities with respect thereto collected, withheld or assessed by any Governmental Authority, excluding, (a) in the case of each Lender the Administrative Agent, and any Tax Related Persons, such taxes (including income taxes or franchise taxes) as are imposed on or measured by its net income or capital by the jurisdiction (or any political subdivision thereof) under the laws of which it is organized or maintains a Lending Office or its principal office or performs its functions as Administrative Agent or as are imposed on such Lender or the Administrative Agent or any of their Tax Related Persons (as the case may be) as a result of a present or former connection between the Lender, the Administrative Agent, or such Tax Related Person and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from the Lender or such Administrative Agent

having executed, delivered or performed its obligations or received a payment under, or enforced, the Transaction Documents) and (b) any taxes, levies, imposts, deductions, charges or withholdings to the extent imposed by reason of any Lender's or Administrative Agent's failure to (i) register as a Foreign Financial Institution with the Ministry of Finance and (ii) be a resident (or have a principal office which is a resident, if such Lender lends through a branch or agency) for tax purposes of a jurisdiction with which Mexico has in effect a treaty for the avoidance of double taxation (but only in respect of those taxes payable in excess of taxes that would have been payable had such Lender complied with those conditions).

"Tax Related Person" means any Person whose income is realized through, or determined by reference to, the Administrative Agent or a Lender; *provided that* no Lender shall be deemed a Tax Related Person of the Administrative Agent, and the Administrative Agent shall not be deemed a Tax Related Person of any Lender.

"Temporary Investments" means, at any date, all amounts that would, in conformity with Mexican FRS consistently applied, be set forth opposite the caption "cash and cash equivalent" ("*efectivo y equivalentes de efectivo*") or "temporary investments" ("*inversiones temporales*") on a consolidated balance sheet of the Borrower at such date.

"Tender Offer" means any offer made by the Borrower or any of its Subsidiaries to acquire at least 50.1% of the issued and outstanding shares of a target company or a controlling interest in such target company.

"Termination Date" means the earlier of (a) February 28, 2011 (or, if the Termination Date has been extended pursuant to Section 3.13, the "Extended Termination Date") and (b) if no Loans are outstanding, the date the Commitments are terminated in accordance with this Agreement.

"TIIE" means, in relation to any Mexican-Rate Loan, a periodic rate equal to the Mexican Benchmark Interbank Rate (*Tasa de Interés Interbancaria de Equilibrio*) (*TIIE*) for a period of 28 days, as quoted by the Mexican Central Bank (*Banco de México*) and published in the Federal Official Gazette (*Diario Oficial de la Federación*) on the first day of the applicable 28-day Interest Period or if such day is not a Business Day, on the immediately preceding Business Day. Interest shall be calculated on the basis of a year of 360 days for actual days elapsed.

"Tranche A Aggregate Exposure" means the Dollar Amount of the aggregate principal amount of all Tranche A Loans outstanding.

"Tranche A Commitment" means, with respect to each Tranche A Lender, the commitment of such Tranche A Lender to make a Tranche A Loan hereunder as set forth under the heading "Tranche A Commitment" in Schedule 1.01(a) or in any Assignment and Assumption Agreement, as such amount may be reduced or increased from time to time in accordance with the provisions hereof.

"Tranche A Commitment Percentage" means, with respect to each Tranche A Lender, a fraction (expressed as a decimal) the numerator of which is the Tranche A Commitment of such Tranche A Lender at such time and the denominator of which is the Aggregate Tranche A Committed Amount at such time or, if the Tranche A Commitments have terminated, the numerator of which is such Tranche A Lender's portion of the Tranche A Aggregate Exposure at such time and the denominator of which is the Tranche A Aggregate Exposure at such time.

"Tranche A Lender" means each financial institution designated as a Tranche A Lender on the signature pages hereof, each Assignee which becomes a Tranche A Lender pursuant to Section 13.06(b), each Substitute Lender and each of their respective successors or assigns.

"Tranche A Loans" shall mean Base Rate Loans or LIBOR Loans made by the Tranche A Lenders to the Borrower pursuant to Section 2.01(a).

"Tranche B Aggregate Exposure" means the Dollar Amount of the aggregate principal amount of all Tranche B Loans outstanding.

"Tranche B Commitment" means, with respect to each Tranche B Lender, the commitment of such Tranche B Lender to make a Tranche B Loan hereunder, as set forth under the heading "Tranche B Commitment" in Schedule 1.01(a) or in any Assignment and Assumption Agreement, as such amount may be reduced or increased from time to time in accordance with the provisions hereof.

"Tranche B Commitment Percentage" means, with respect to each Tranche B Lender, a fraction (expressed as a decimal) the numerator of which is the Tranche B Commitment of such Tranche B Lender at such time and the denominator of which is the Aggregate Tranche B Committed Amount at such time or, if the Tranche B Commitments have terminated, the numerator of which is such Tranche B Lender's portion of the Tranche B Aggregate Exposure at such time and the denominator of which is the Tranche B Aggregate Exposure at such time.

"Tranche B Lender" means each financial institution designated as a Tranche B Lender on the signature pages hereof, each Assignee which becomes a Tranche B Lender pursuant to Section 13.06(b), each Substitute Lender and each of their respective successors or assigns.

"Tranche B Loans" shall mean Mexican-Rate Loans made by the Tranche B Lenders to the Borrower pursuant to Section 2.01(a).

"Transaction Documents" means a collective reference to this Credit Agreement, the Notes, any Assignment and Assumption Agreement, the Fee Letters and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto.

"United States" means the United States of America, including the States and the District of Columbia, but excluding its territories and possessions.

"Value of Debt Currency Derivatives" means, on any given date, the aggregate mark-to-market value of Debt Currency Derivatives, expressed as a positive number (if, on a mark-to-market basis, such aggregate amount reflects a net amount owed to the Borrower and its Subsidiaries) or as a negative number (if, on a mark-to-market basis, such aggregate amount reflects a net amount owed by the Borrower and its Subsidiaries). For the avoidance of doubt, Value of Debt Currency Derivatives is net of any amounts pledged as cash collateral.

"Welfare Plan" means a "welfare plan", as such term is defined in Section 3(1) of ERISA.

1.02. Other Definitional Provisions.

(a) The terms "including" and "include" are not limiting and mean "including but not limited to" and "include but are not limited to".

(b) The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, and Article, Section, paragraph, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(c) The meanings given to terms defined herein are equally applicable to both the singular and plural forms of such terms.

(d) In this Agreement, in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each means "to but excluding". Periods of days referred to in this Agreement shall be counted in calendar days unless Business Days are expressly prescribed.

(e) Unless the context requires otherwise, or as otherwise set forth herein, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified and (ii) any reference to any law shall refer to such law as amended, modified or supplemented from time to time.

(f) The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

1.03. Accounting Terms and Determinations.

(a) All accounting and financing terms not specifically defined herein shall be construed in accordance with Mexican FRS or, if the context shall require, Applicable GAAP.

(b) Calculations with respect to the Consolidated Net Debt/EBITDA Ratio and the Adjusted Consolidated Net Tangible Assets and the defined terms used in such calculations, when made in relation to dates other than the last day of a Quarterly Period, shall be made by the Borrower acting in good faith by reference to (i) the most recently available financial statements of the Borrower and its Subsidiaries (including, to the extent available, unaudited monthly financial information) as of such date and (ii) events, conditions and circumstances occurring or existing subsequent to such financial statements.

ARTICLE II
THE LOAN FACILITIES

2.01. Loans.

(a) Commitment. On the terms and subject to the conditions hereof, (i) each Tranche A Lender, severally and not jointly with any other Tranche A Lender, agrees to make a Tranche A Loan to the Borrower on a single date during the Commitment Period (the "Disbursement Date") in Dollars in a principal Dollar Amount not to exceed such Tranche A Lender's Tranche A Commitment; and (ii) each Tranche B Lender, severally and not jointly with any other Tranche B Lender, agrees to make a Tranche B Loan to the Borrower on the

Disbursement Date in Pesos in a principal amount not to exceed such Tranche B Lender's Tranche B Commitment. Tranche A Loans shall consist of Base Rate Loans or LIBOR Loans or a combination thereof and Tranche B Loans shall consist of Mexican-Rate Loans.

(b) Loans and Borrowings. Each Tranche A Loan shall be made ratably in accordance with the Tranche A Commitment Percentage of each Tranche A Lender. Each Tranche B Loan shall be made ratably in accordance with the Tranche B Commitment Percentage of each Tranche B Lender. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; *provided that* the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(c) Request for Borrowings.

(i) To request the Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone, not later than 11:00 a.m., New York City time, two (2) Business Days prior to the day the Borrower designates as the Disbursement Date. The telephonic Borrowing request shall be irrevocable and shall be confirmed promptly, on the same day as the making of the telephonic Borrowing Request, by hand delivery or facsimile to the Administrative Agent of a written notice (the "Notice of Borrowing") in the form attached as Exhibit B approved by the Administrative Agent and signed by a duly authorized representative of the Borrower. The telephonic request and written Notice of Borrowing shall specify the following information in compliance with this Section 2.01:

(A) that the Loans are requested;

(B) the requested Disbursement Date, which shall be a Business Day;

(C) the currency and the aggregate principal amount to be borrowed; and

(D) whether the Borrowing shall be composed of Base Rate Loans, LIBOR Loans, Mexican-Rate Loans, or a combination thereof.

(ii) Not later than 12:00 p.m. New York City time on the Business Day on which the Notice of Borrowing is received, the Administrative Agent shall promptly advise each Lender of the details thereof and shall advise each Lender of the amount of such Lender's Loan to be made as part of the requested Borrowing.

(d) Funding of Borrowing. Each Lender shall make each Loan to be made by it hereunder on the Disbursement Date by 11:00 a.m., New York City time, (x) in the case of Tranche A Loans, in Federal or other funds immediately available in New York City to the Administrative Agent at the Agent's New York Account, and (y) in the case of Tranche B Loans, in funds immediately available in Mexico City to the Administrative Agent at the Administrative Agent's Mexico Account. The Administrative Agent shall use such funds on behalf of the Borrower to prepay the Existing Bilateral Facilities. Unless the Administrative Agent shall have received notice from a Lender, prior to the time of the Borrowing, that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may, but shall not be required to, assume that such Lender has made such share available on such date in accordance with Section 2.01(c) and may in its sole discretion, but shall not be required to, in reliance upon such assumption, make available to the Borrower a corresponding amount. If any Lender either does not make its share of the Borrowing available to the Administrative Agent or delays in doing so past 4:00 p.m., New York City time, on the Disbursement Date (such Lender (until it makes such share available) hereinafter referred to as a " Defaulting Lender"), then the Administrative Agent shall immediately notify the Borrower of

such default. If the Administrative Agent has, in its sole discretion, made available to the Borrower an amount corresponding to such Defaulting Lender's share of the Borrowing, then the Defaulting Lender and the Borrower jointly and severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, on each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent at:

(i) in the case of the Defaulting Lender, (A) for a Tranche A Loan, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation and (B) for a Tranche B Loan, TIIE; or

(ii) in the case of the Borrower, (A) for a Tranche A Loan, the interest rate applicable to Base Rate Loans and (B) for a Tranche B Loan, TIIE times plus the Applicable Margin.

If, with respect to the immediately preceding sentence, the Borrower pays such amount to the Administrative Agent, then the Defaulting Lender shall indemnify and hold harmless the Borrower from and against such amount, and if such Defaulting Lender pays such amount to the Administrative Agent, then such amount shall constitute such Defaulting Lender's Loan included in such Borrowing. If the Administrative Agent, in its discretion, does not make available to the Borrower an amount corresponding to the Defaulting Lender's share of the Borrowing then the Defaulting Lender shall indemnify and hold harmless the Borrower from and against such amount as well as any and all losses, liabilities (including liabilities for penalties), actions, suits, judgments, demands, costs, and expenses (including reasonable fees and disbursements for counsel including allocated cost of internal counsel) resulting from any failure on the part of the Defaulting Lender to provide, or from any delay in providing, the Administrative Agent with such Defaulting Lender's pro rata share of the Borrowing, but no Lender shall be so liable for any such failure on the part of or caused by any other Lender or the Administrative Agent or the Borrower.

(e) Extension and Conversion. The Borrower shall have the option, on any Business Day, to extend existing LIBOR Loans into a subsequent permissible Interest Period or to convert LIBOR Loans into Base Rate Loans or to convert Base Rate Loans into LIBOR Loans; *provided*, *however*, that (i) except as provided in Section 3.06, LIBOR Loans may only be converted into Base Rate Loans on the last day of the Interest Period applicable thereto unless the Borrower agrees to pay all Funding Losses; (ii) Loans extended as LIBOR Loans, or converted into LIBOR Loans, shall be subject to the terms of the definition of "Interest Period" set forth in Section 1.01; and (iii) Base Rate Loans may not be converted into, and LIBOR Loans may not be continued as, LIBOR Loans, if a Default or Event of Default has occurred and is continuing. Each such extension or conversion shall be effected by the Borrower by giving a written notice (or telephone notice promptly confirmed in writing) (a " Notice of Extension/Conversion") to the Administrative Agent prior to 10:00 a.m., New York City time, on the Business Day of, in the case of the conversion of a LIBOR Loan into a Base Rate Loan, and on the third Business Day prior to, in the case of the extension of a LIBOR Loan as, or conversion of a Base Rate Loan into, a LIBOR Loan, the date of the proposed extension or conversion, substantially in the form of Exhibit C hereto, specifying (A) the date of the proposed extension or conversion and (B) the Loans to be so extended or converted. Each Notice of Extension/Conversion shall be irrevocable. If the Borrower does not request extension or conversion of any LIBOR Loan in accordance with this Section, then such LIBOR Loan shall be continued as a Base Rate Loan at the end of the Interest Period applicable thereto, until the Borrower converts such Loan to a LIBOR Loan. In the event any LIBOR Loans are not permitted to be continued as a LIBOR Loan hereunder, such LIBOR Loans shall automatically be converted to Base Rate Loans at the end of the applicable Interest Period with respect thereto. The Administrative Agent shall give each Lender notice as

promptly as practicable of any such proposed extension or conversion affecting any Loan. The Borrower agrees that, if so requested by the Administrative Agent or any Lender, it will exchange and deliver to the Administrative Agent or Lender, as the case may be, any Notes outstanding for new Notes signed by the Credit Parties (through their duly empowered representatives) that reflect any election made by the Borrower under this Section 2.01(e) any change in the applicable interest rate, and prepayment or any other circumstance as may be necessary to accurately reflect the terms of each outstanding loan promptly after such request and upon its receipt of the Notes to be exchanged.

(f) Amortization; Repayment. The Borrower shall repay the Loans in such amounts as follows:

(i) Subject to any adjustment pursuant to subsection (ii) below and Section 2.01(g), the Borrower shall repay the Loans: (1) on or prior to November 13, 2009, in an aggregate principal amount equal to U.S.$225,000,000 (the " 2009 Amortization"); and (2) on the last Business Day of each of February, May, August and November 2010, in a principal amount equal to U.S.$50,000,000 (collectively referred to as the " 2010 Amortization"); *provided that* the 2010 Amortization installments shall be ratably reduced by the amount of Loans prepaid in excess of the 2009 Amortization and on or before December 31, 2009.

(ii) Notwithstanding the provision in paragraph (i)(2) above, if the CEMEX España Tranche B Extension occurs, in an amount greater than U.S.$1,500,000,000, the Borrower shall, on or prior to December 31, 2009, repay Loans in an aggregate principal amount equal to the lesser of (A) one-third of the amount of loans, in excess of U.S.$1,500,000,000, for which the CEMEX España Tranche B Extension has occurred and (B) U.S.$200,000,000; *provided that*, such amount shall be applied to ratably reduce the 2010 Amortization installments.

(iii) Notwithstanding any other provision herein, the Borrower shall repay the outstanding principal amount of the Loans on the Termination Date.

(g) Voluntary Prepayment. Loans may be prepaid in whole or in part, without premium or penalty, *provided that* any partial prepayment of Loans shall be in a principal Dollar Amount of U.S.$5,000,000 in the case of Tranche A Loans and MXN50,000,000 in the case of Tranche B Loans or, if less, the entire principal amount thereof then outstanding. Any prepayment of the Loans under this paragraph (g) will be applied, if made on or prior to November 13, 2009, to reduce the amount of the 2009 Amortization, and if made after November 13, 2009, firstly, to ratably reduce the 2010 Amortization installments, and secondly, to ratably reduce the Loans then outstanding.

(h) Mandatory Prepayment.

(i) Until the earlier of November 13, 2009 and the repayment in full of the 2009 Amortization, the Borrower and its Subsidiaries shall apply one hundred percent (100%) of the Net Cash Proceeds in respect of any Asset Sale (but excluding Excluded Asset Sales) as follows: (1) with respect to the initial U.S.$1,500,000,000 of aggregate Net Cash Proceeds, a portion of up to U.S.$450,000,000 may be applied to prepay principal amounts outstanding (including interest) under the CEMEX España 2009 Facility, in accordance with the terms thereof; (2) the total or a portion of any Net Cash Proceeds may be applied towards the payment or voluntary prepayment of principal amounts outstanding, together with any mandatory make-whole or similar payments and, to the extent required, payment of interest, under those certain Debt facilities, notes, bonds, other Debt instruments and derivative agreements listed on

Schedule 2.01(h)(i) hereto and/or to the repurchase of receivables transferred in a Qualified Receivables Transaction listed on Schedule 2.01(h)(i) hereto; (3) any Net Cash Proceeds remaining after the payments, prepayments or repurchases contemplated by clauses (1) and (2) above shall be applied to prepay the Loans outstanding under this Agreement in an aggregate amount equal to the lesser of (A) U.S.$225,000,000 and (B) the then unpaid amount of the 2009 Amortization; and (4) any Net Cash Proceeds remaining after the payments or prepayments contemplated by clauses (1), (2) and (3) above may be applied as the Borrower may select (subject to Section 8.04).

(ii) If the aggregate Net Cash Proceeds from Asset Sales used to prepay Loans pursuant to clause (h)(i) above on or before June 30, 2009 equal less than U.S.$1,000,000,000, the Borrower shall, or shall procure that a Subsidiary shall, subject to the conditions below, use commercially reasonable efforts to complete a Securities Issuance as soon as practicable and in any event on or before November 13, 2009, the Net Cash Proceeds of which shall be sufficient to repay the Loans in a principal amount equal to the lesser of (A) U.S.$225,000,000 and (B) the then unpaid amount of the 2009 Amortization. The Borrower shall apply such portion of the Net Cash Proceeds of a Securities Issuance as is sufficient to prepay outstanding Loans in accordance with the preceding sentence. Any Securities Issuance shall be subject to the following conditions: (1) such Securities Issuance (after application of the Net Cash Proceeds therefrom) shall be consistent with the Borrower's or the relevant Subsidiary's contractual obligations (including its obligations hereunder) and the fiduciary duties of its board of directors or similar governing body; (2) such issuance if in the U.S. markets shall be structured so as to be exempt from registration under United States federal and state securities laws or otherwise comply with such laws; (3) the economic terms and conditions of the securities issued shall be reasonably acceptable to the Borrower or the relevant Subsidiary, including being on similar terms to securities issued in the period of ninety (90) days prior to the date of issuance by corporate issuers that are comparable in the sector and which have a comparable rating to that of the Borrower or the relevant Subsidiary (or if no such securities have been issued, on similar terms to securities issued by US corporate issuers with a comparable rating to the Borrower or the relevant Subsidiary); and (4) the covenant terms, as to the Borrower or the relevant Subsidiary, shall be substantially similar to the terms of the Borrower's or the relevant Subsidiary's (as the case may be) other outstanding long term debt securities and shall not conflict with, or be more onerous than, the terms of the Borrower's or such Subsidiary's other bank financing arrangements at that time.

(i) Payments Generally. The Borrower shall notify the Administrative Agent by telephone (confirmed by telecopy) of each prepayment or repayment of Loans not later than 11:00 a.m. New York City time, three (3) Business Days before the scheduled date of such repayment, which notice shall specify the Section of this Agreement pursuant to which such payment is being made and include reasonable detail as to the determination of the amount to be paid. Each repayment of Loans contemplated by Section 2.01(f) above shall be made on the dates specified therein. Each payment, prepayment or repurchase of Loans or other Debt required pursuant to Sections 2.01(h)(i) and (ii) above shall be made no later than: (i) where the next occurring date required for payment or, in the case of the Loans, Interest Payment Date falls more than thirty (30) days from the date of receipt of the relevant Net Cash Proceeds by the relevant member of the CEMEX Group, such next occurring date required for payment or, in the case of the Loans, Interest Payment Date; and (ii) where such next occurring date required for payment or, in the case of the Loans, Interest Payment Date falls fewer than thirty (30) days from the date of receipt of the relevant Net Cash Proceeds by the relevant member of the CEMEX Group, the date falling not later than thirty (30) days after such next occurring date required for payment or, in the case of the Loans, Interest Payment Date (or, in the case of the Loans, if earlier,

November 13, 2009). Each prepayment and repayment of Loans shall: (i) be applied ratably to each Lender in accordance with the Dollar Amount each Lender's Loan constitutes of the Aggregate Exposure on such date; (ii) be accompanied by the payment of all accrued interest thereon, together with, if such prepayment is made on any date other than a scheduled Interest Payment Date, any Funding Losses required pursuant to Section 3.06; (iii) be made in the same currency denomination as the Loan being prepaid or repaid; and (iv) be made without penalty or premium (but without limitation of Section 3.06). Amounts prepaid or repaid may not be reborrowed.

(j) Notes. Subject to Section 2.01(e), the Tranche A Loans of each Tranche A Lender shall be evidenced by a duly executed note in favor of such Tranche A Lender in the form of Exhibit A-1 attached hereto, and the Tranche B Loans of each Tranche B Lender shall be evidenced by a duly executed note in favor of such Tranche B Lender in the form of Exhibit A-2 attached hereto. Each Note shall be executed by the Borrower, be guaranteed (*por aval*) by the Guarantors and, in the case of the Tranche B Loans, qualify as a *pagaré*, and specify the Applicable Margin applicable to such Loans.

2.02. Interest.

(a) Base Rate Loans. Each Base Rate Loan shall bear interest at a rate per annum equal to the Base Rate plus the Applicable Margin.

(b) LIBOR Loans. Each LIBOR Loan shall bear interest for each Interest Period at a rate per annum equal to LIBOR for such Interest Period plus the Applicable Margin.

(c) Mexican-Rate Loans. Each Mexican-Rate Loan shall bear interest for each Interest Period at a rate per annum equal to TIIE for such Interest Period plus the Applicable Margin.

(d) Default Interest. Notwithstanding the foregoing, if any principal of, or interest on, any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration, by mandatory prepayment or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, two percent (2.00%) plus the rate otherwise applicable to such Loan as provided above or (ii) in the case of any other amount, two percent (2.00%) plus the rate applicable to Base Rate Loans as provided in Section 2.02(a).

(e) Payment of Interest. Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan; *provided that* (i) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (ii) in the event of any conversion of any LIBOR Loan prior to the end of the Interest Period therefore, accrued interest on such Loan shall be payable on the effective date of such conversion. Interest with respect to each Loan shall be paid in the currency in which such Loan is denominated.

(f) Computation. All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Base Rate at times when the Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Base Rate, LIBOR or Mexican-Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

ARTICLE III
TERMINATION AND REDUCTION OF COMMITMENTS; FEES, TAXES, PAYMENT PROVISIONS

3.01. Termination or Reduction of Commitments.

(a) Mandatory Termination. The Commitments shall terminate on the last day of the Commitment Period.

(b) Voluntary Termination. Upon at least three (3) Business Days' notice to the Administrative Agent and the Joint Arrangers, the Borrower may terminate the existing Commitments.

3.02. Fees.

(a) Facility Fee. The Borrower agrees to pay to the Administrative Agent, one (1) Business Day after the Effective Date, for the account of the Lenders ratably in accordance with their Commitment Percentage, a facility fee in an amount equal to 0.5% of the Aggregate Committed Amount on such date;

(b) The Borrower agrees to pay to the Administrative Agent, one (1) Business Day after the first anniversary of the Effective Date, for the account of the Lenders on such date ratably in accordance with the Dollar Amount each Lender's Loans constitute of the Aggregate Exposure on such date, an additional facility fee in an amount equal to 0.5% of the Aggregate Exposures of all the Lenders on such date (after all amortizations and prepayments prior to such date); and

(c) Administrative Agent's Fees. The Borrower will pay to the Administrative Agent for the sole account of the Administrative Agent, an agency fee in an amount and at the times agreed to by the Administrative Agent and the Borrower in the Administrative Agency Fee Letter.

3.03. Computation of Fees. All fees calculated on a per annum basis shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed.

3.04. Taxes.

(a) Any and all payments by the Borrower or a Guarantor, as the case may be, to any Lender, the Joint Arrangers or the Administrative Agent under this Agreement and the other Transaction Documents shall be made free and clear of, and without deduction or withholding for or on account of, any Taxes unless required by law. In addition, the Borrower shall promptly pay all Other Taxes.

(b) Except as otherwise provided in Section 3.04(c), the Borrower and the Guarantors jointly and severally agree to indemnify and hold harmless each Lender and the Administrative Agent for the full amount of Taxes or Other Taxes (without duplication) excluding in each case United States backup withholding Taxes imposed because of payee underreporting (including any Taxes or Other Taxes (without duplication) imposed by any

jurisdiction on amounts payable under this Section 3.04) paid by or assessed against any Lender or the Administrative Agent in respect of any sum payable hereunder and any liability (including penalties, interest, additions to tax and expenses) arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted, except to the extent that such penalties, interest, additions to tax or expenses are incurred solely as a result of any gross negligence or willful misconduct of such Lender or Administrative Agent, as the case may be. Payment under this indemnification shall be made within thirty (30) days after the date any Lender or the Administrative Agent makes written demand therefor, setting forth in reasonable detail the basis and calculation of such amounts (such written demand shall be presumed correct, absent significant error).

(c) If the Borrower or the Guarantors, as the case may be, shall be required by law to deduct or withhold any Taxes or Other Taxes from or in respect of any sum payable hereunder to any Lender or the Administrative Agent, then:

(i) the sum payable shall be increased as necessary so that after making all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable under this Section 3.04, but excluding in each case United States backup withholding Taxes imposed because of payee underreporting) such Lender or the Administrative Agent receives an amount equal to the sum it would have received had no such deductions or withholdings been made*; provided that*, the Borrower shall not be required to increase any amounts payable to such Lender or the Administrative Agent to the extent such increased amounts would be in excess of the amounts that would have been payable to such Lender or the Administrative Agent had such Lender or Administrative Agent complied with the requirements of Section 3.04(f) or to the extent provided in Section 3.04(g);

(ii) the Borrower or the Guarantors, as the case may be, shall make such deductions and withholdings; and

(iii) the Borrower or the Guarantors, as the case may be, shall pay the full amount deducted or withheld to the relevant taxing authority or other authority in accordance with applicable law.

(d) Within thirty (30) days after the date of any payment by the Borrower or the Guarantors, as the case may be, of Taxes or Other Taxes, the Borrower or the Guarantors, as the case may be, shall furnish to the Administrative Agent the original or a certified copy of a receipt evidencing payment thereof or other evidence of payment reasonably satisfactory to the Administrative Agent or the relevant Lender.

(e) If the Borrower or the Guarantors, as the case may be, is required to pay additional amounts to the Administrative Agent or any Lender pursuant to Section 3.04(c) other than amounts related to the withholding of Mexican tax at the rate applicable to interest payments received by foreign financial institutions registered with the *Secretaría de Hacienda y Crédito Público* as a Foreign Financial Institution for the purposes of Article 195, Section I of the Mexican Income Tax law, then the Administrative Agent or such Lender shall, upon reasonable request by the Borrower or the Guarantors, use reasonable efforts (consistent with legal and regulatory restrictions) to change the jurisdiction of its Lending Office, issuing office, or office for receipt of payments by the Borrower and Guarantors hereunder, as the case may be, so as to eliminate or reduce the obligation of the Borrower or the Guarantors, as the case may be, to pay any such additional amounts which may thereafter accrue or to indemnify the Administrative Agent or such Lender in the future, if such change in the reasonable judgment of the Administrative Agent or such Lender is not otherwise disadvantageous to such Lender.

(f) Each Lender and the Administrative Agent shall, from time to time at the request of the Borrower or the Administrative Agent (as the case may be), promptly furnish to the Borrower and the Administrative Agent (as the case may be), such forms, documents or other information (which shall be accurate and complete) as may be required by law or regulation to establish any available exemption from, or reduction in the amount of, applicable Taxes, including, but not limited to, evidence of tax residence of each Lender given by the applicable tax authority within one year from the date of the deduction or withholding by the Borrower of any Taxes or Other Taxes; *provided*, *however*, that none of any Lender or the Administrative Agent shall be obliged to disclose information regarding its tax affairs or computations to the Borrower in connection with this paragraph (f), it being understood that the identity of any Person shall not be considered for these purposes as information regarding its tax affairs or computations. Each of the Borrower and the Administrative Agent shall be entitled to rely on the accuracy of any such forms, documents or other information furnished to it by any Person and shall have no obligation to make any additional payment or indemnify any Person for any Taxes, interest or penalties that would not have became payable by such Person had such documentation been accurate.

(g) In the case of an assignment, transfer, grant of a participation, designation of a new Lending Office or Administrative Agent's New York Account or Administrative Agent's Mexico Account or appointment of a successor Administrative Agent, the Borrower and Guarantors shall not be required to pay or increase any amounts, pursuant to this Section 3.04 following such event, in excess of the amounts the Borrower and Guarantors were required to pay or increase immediately prior to such an event, except to the extent such event occurs pursuant to Section 3.11 or to the extent of increases in such amounts resulting from a change in applicable law occurring after such event.

(h) If the Administrative Agent or any Lender receives a refund or credit in respect of Taxes or Other Taxes as to which it has been indemnified by the Borrower or a Guarantor, as the case may be, pursuant to Section 3.04(b) and such refund or credit is directly and clearly attributable to this Agreement, it shall notify the Borrower or such Guarantor, as the case may be, of the amount of such refund or credit and shall return to the Borrower or such Guarantor, as the case may be, such refund or the benefit of such credit; *provided*, *however*, that (A) the Administrative Agent or such Lender, as the case may be, shall not be obligated to make any effort to obtain such refund or credit or to provide the Borrower or the Guarantors with any information on or justification for the arrangement of its tax affairs or otherwise disclose to the Borrower, the Guarantors or any other Person any information that it considers to be proprietary or confidential, and (B) the Borrower or such Guarantor, as the case may be, upon the request of the Administrative Agent or such Lender, as the case may be, shall return the amount of such refund or the benefit of such credit (together with any interest or such other amounts (*actualizaciones*) accrued thereon) to the Administrative Agent or such Lender, as the case may be, if the Administrative Agent or such Lender, as the case may be, is required to repay the amount of such refund or the benefit of such credit to the relevant authorities within six (6) years of the date the Borrower or such Guarantor, as the case may be, is paid such amount by the Administrative Agent or such Lender, as the case may be.

(i) The agreements in this Section 3.04 shall survive the termination of this Credit Agreement and the payment of the Borrower's Obligations.

3.05. General Provisions as to Payments.

(a) All payments to be made by the Borrower or the Guarantors, as the case may be, shall be made without set-off, counterclaim or other defense. Except as otherwise expressly provided herein, all payments by the Borrower shall be made to the Administrative Agent for the account of the Lenders at the Administrative Agent's New York Account, in the case of Tranche A Loans, or the Administrative Agent's Mexico Account, in the case of Tranche B Loans, and shall be made in Dollars for Tranche A Loans and Pesos for Tranche B Loans and in immediately available funds, no later than 3:30 p.m. (New York City time) on the dates specified herein. The Administrative Agent will promptly distribute to each Lender its Commitment Percentage (or other applicable share as expressly provided herein) of each payment in like funds as received. Any payment received by the Administrative Agent later than 3:30 p.m. (New York City time) shall be deemed to have been received on the following Business Day and any applicable interest or fee shall continue to accrue until such following Business Day.

(b) Except and to the extent otherwise specifically provided herein, whenever any payment to be made hereunder is due on a day which is not a Business Day, the date for payment thereof shall be extended to the immediately following Business Day and, if interest is stated to be payable in respect thereof, interest shall continue to accrue to such immediately following Business Day.

(c) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Lenders hereunder that the Borrower will not make such payment in full, the Administrative Agent may assume that the Borrower has made such payment in full to the Administrative Agent on such date and the Administrative Agent may (but shall not be so required), in reliance upon such assumption, cause to be distributed to each Lender, as the case may be, on such due date an amount equal to the amount then due to such Lender. If and to the extent that the Borrower shall not have made such payment, each Lender shall repay to the Administrative Agent forthwith on demand such amount distributed to such Lender together with accrued interest thereon, for each day from the date such amount is distributed to such Lender until the date such Lender repays such amount to the Administrative Agent, at the Federal Funds Rate; *provided*, *however*, that if any amount remains unpaid by any Lender for more than five (5) Business Days after the Administrative Agent has made a demand for such amount, such Lender shall, commencing on the day next following such fifth Business Day, pay interest to the Administrative Agent at a rate per annum equal to the Federal Funds Rate plus one percent (1.00%), and, *provided further*, that if any such amount remains unpaid by any Lender for more than ten (10) Business Days, such Lender shall, commencing on the day next following such tenth Business Day, pay interest to the Administrative Agent at a rate per annum equal to the Federal Funds Rate plus two percent (2.00%).

(d) Currency of account.

(i) Subject to paragraphs (ii) through (v) below, Dollars are the currency of account and payment for any sum due from parties under any Transaction Document.

(ii) A repayment of an Obligation or a part of an Obligation shall be made in the currency in which that Obligation is denominated on its due date.

(iii) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

(iv) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

(v) Any amount expressed to be payable in a currency other than Dollars shall be paid in that other currency.

(e) Change of currency.

Unless otherwise prohibited by law or regulation, if more than one currency or currency unit are at the same time recognized by the central bank of any country as the lawful currency of that country, then:

(A) any reference in the Transaction Documents to, and any Obligations arising under the Transaction Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country as agreed by the Administrative Agent and the Borrower; and

(B) any translation from one currency or currency unit to another shall be at the official rate of exchange recognized by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Administrative Agent (acting reasonably).

If a change in any currency of a country occurs, this Agreement will, to the extent the Administrative Agent and the Borrower deem necessary, be amended to comply with any generally accepted conventions and market practice in the relevant interbank market and otherwise to reflect the change in currency.

3.06. Funding Losses. If the Borrower makes any payment of principal with respect to any LIBOR Loan or Mexican-Rate Loan on any day other than the last day of the Interest Period applicable thereto, or if the Borrower fails to borrow any LIBOR Loans or Mexican-Rate Loans after notice has been given to any Lender in accordance with Section 2.01 or to convert a Base Rate Loan to a LIBOR Loan or to continue a Loan as a LIBOR Loan after a Notice of Extension/Conversion has been delivered by the Borrower pursuant to Section 2.01(e), or if the Borrower fails to prepay any LIBOR Loans or Mexican-Rate Loans after notice has been given pursuant to Section 2.01, the Borrower shall reimburse each Lender within fifteen (15) days after demand for any resulting loss or expense incurred by it, including any loss incurred in obtaining, liquidating or reemploying deposits bearing interest by reference to LIBOR or TIIE from third parties ("Funding Losses"), *provided* such Lender shall have delivered to the Borrower a certificate setting forth in reasonable detail the computations for the amount of such loss or expense, which certificate shall be conclusive in the absence of manifest error.

3.07. Basis for Determining Interest Rate Inadequate or Unfair . (a) If on or prior to the first day of any Interest Period for any LIBOR Loan:

(i) the Administrative Agent determines that by reason of circumstances affecting the London interbank market reasonably adequate means do not exist for ascertaining LIBOR applicable to such Interest Period or that deposits in the relevant currency (in the applicable amounts) are not being offered in the London interbank market for such Interest Period, or

(ii) the Required Lenders advise the Administrative Agent that LIBOR as determined by the Administrative Agent will not adequately and fairly reflect the cost to any Lender of making or maintaining its LIBOR Loan for such Interest Period,

then the Administrative Agent shall forthwith give notice thereof to the Borrower and the Lenders. In the event of any such determination or advice, with respect to LIBOR Loans, until the Administrative Agent shall have notified the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, any request by the Borrower for a Loan of the affected amount or Interest Period, or a conversion to or continuation of a Loan of the affected amount or Interest Period shall be deemed rescinded and such request shall instead be considered a request for a Base Rate Loan (and each determination by the Administrative Agent hereunder shall be conclusive absent manifest error).

(b) In the event TIIE shall cease to be published, the Applicable Margin with respect to Mexican Rate Loans shall be (i) the rate specified by *Banco de México* as the substitute rate of TIIE, or (ii) in case *Banco de México* does not specify such substitute rate, (A) the rate for 28-day *Certificados de la Tesorería de la Federación* published by the *Secretaría de Hacienda y Crédito Público* through *Banco de México* by any electronic means, including internet, on the first day of each applicable Interest Period or if such day is not a Business Day on the immediately preceding Business Day (the "Cetes Rate") plus the spread between the average of the last twenty (20) published TIIE rates and such Cetes Rate, if any, or (B) in case the Cetes Rate is not published, the *Costo de Captación de Pasivos a Plazo* (the "CCP") most recently published by *Banco de México* prior to the first day of each applicable Interest Period plus the spread between the average of the last twenty (20) published TIIE rates and such CCP, if any.

(c) In the event *Banco de México* does not publish an alternate rate for TIIE, the Cetes Rate and CCP, the Administrative Agent and the Borrower shall negotiate in good faith to determine the interest rate to which the Applicable Margin with respect to Mexican Rate Loans shall be added; *provided* that: (i) as of the date on which TIIE, the Cetes Rate and CCP cease to be published and until the date on which one of such rates is republished or the interest rate is otherwise agreed, the interest rate to which the Applicable Margin with respect to Mexican Rate Loans shall be added shall be the interest rate most recently in effect; (ii) in the event TIIE is not published during a term of thirty (30) or more days and, during such period *Banco de México* does not publish the Cetes Rate or CCP and the Borrower and the Administrative Agent have not agreed on an alternate interest rate, the interest rate to which the Applicable Margin with respect to Mexican Rate Loans shall be added shall be the market rate determined by the Administrative Agent having a financial cost similar to that of TIIE (and the Administrative Agent shall promptly notify the Borrower of such rate); and (iii) any interest rate determined pursuant to subparagraphs (i) or (ii) above shall cease to apply as soon as *Banco de México* republishes TIIE, the Cetes Rate or CCP.

(d) If on or prior to the first day of any Mexican Rate Loan, the Required Lenders notify the Administrative Agent that TIIE (or any alternate rate established pursuant to clause (b) above) will not adequately and fairly reflect the cost to any Lender of making or maintaining its Mexican Rate Loan for such Interest Period, the Administrative Agent shall forthwith give notice thereof to the Borrower and the Lenders. In the event of any such notice, the interest rate to which the Applicable Margin with respect to Mexican Rate Loans shall be added shall be the Alternate Peso Rate until the Administrative Agent shall have notified the Borrower and the Lenders that the circumstance giving rise to such notice no longer exist.

For purposes of this paragraph (d), "Alternate Peso Rate" means the average of the rates per annum offered by the Mexican Reference Banks to banks for inter-bank loans for periods

similar to the relevant Interest Period on the first day of the relevant Interest Period or if such day is not a Business Day on the immediately preceding Business Day, which the Administrative Agent shall obtain and notify in writing to the Borrower on the first day of each Interest Period. " Mexican Reference Banks" shall mean Banco Nacional de México, S.A., BBVA Bancomer, S.A., and Banco Santander (México), S.A..

3.08. Capital Adequacy.

If any Lender has determined, after the date hereof, that the adoption or the becoming effective of, or any change in, or any change by any Governmental Authority, central bank, or comparable agency charged with the interpretation or administration thereof in the interpretation or administration of, any applicable law, rule, or regulation regarding capital adequacy, or compliance by such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank, or comparable agency, has or would have the effect of increasing such Lender's cost of maintaining its Commitment or making or maintaining any Loans or reducing the rate of return on such Lender's capital or assets as a consequence of its commitments or obligations hereunder to a level below that which such Lender could have achieved but for such adoption, effectiveness, change, or compliance (taking into consideration such Lender's policies with respect to capital adequacy), then, upon notice from such Lender to the Borrower, the Borrower shall be obligated to pay to such Lender such additional amount or amounts as will compensate such Lender for such increased cost or reduction in amount received. Each determination by any such Lender of amounts owing under this Section shall, absent manifest error, be conclusive and binding on the parties hereto. The relevant Lender will, upon request, provide a certificate in reasonable detail as to the amount of such increased cost or reduction in amount received and method of calculation.

Upon any Lender's making a claim for compensation under this Section 3.08 (i) such Lender shall use commercially reasonable efforts (consistent with legal and regulatory restrictions) to change the jurisdiction of its Lending Office or assign its rights and obligations hereunder to another of its offices, branches or affiliates so as to eliminate or reduce any such additional payment by the Borrower which may thereafter accrue, if such change is not otherwise disadvantageous to such Lender, and (ii) the Borrower may replace such Lender in accordance with Section 3.11.

3.09. Illegality.

(a) Notwithstanding any other provision herein, if the adoption of or any change in any Requirement of Law or in the interpretation or application thereof occurring after the Effective Date shall make it unlawful for any Lender to make or maintain any Commitment or any Loan as contemplated by this Agreement, then such Lender, together with Lenders giving notice under Section 3.07, shall be an " Affected Lender" and by written notice to the Borrower and to the Administrative Agent:

(i) such Lender may declare that such Loans will not thereafter (for the duration of such unlawfulness or impossibility) be made by such Lender hereunder, whereupon, in the case of any request for a LIBOR Loan, as to such Lender, such request shall only be deemed a request for a Base Rate Loan (unless it should also be illegal for the Affected Lender to provide a Base Rate Loan, in which case such Loan shall bear interest at a commensurate rate to be agreed upon by the Administrative Agent and the Affected Lender, and so long as no Event of Default shall have occurred and be continuing, the Borrower), unless such declaration shall be subsequently withdrawn;

(ii) such Lender may require that all outstanding LIBOR Loans, made by it be converted to Base Rate Loans, in which event all such LIBOR Loans shall be automatically converted to Base Rate Loans as of the effective date of such notice as provided in paragraph (b) below; and

(iii) if it is also illegal for the Affected Lender to make Base Rate Loans, and in any case with respect to Mexican-Rate Loans, such Lender may declare all amounts owed to them by the Borrower to the extent of such illegality to be due and payable; *provided*, *however*, the Borrower has the right, with the consent of the Administrative Agent to find an additional Lender to purchase the Affected Lenders' rights and obligations.

In the event any Lender shall exercise its rights under (i) or (ii) above with respect to any Loans, all payments and prepayments of principal that would otherwise have been applied to repay the LIBOR Loans that would have been made by such Lender or the converted LIBOR Loans of such Lender shall instead be applied to repay the Base Rate Loans made by such Lender in lieu of, or resulting from the conversion, of such LIBOR Loans.

(b) For purposes of this Section 3.09, a notice to the Borrower by any Lender shall be effective as to each such Loan, if lawful, on the last day of the Interest Period currently applicable to such Loan; in all other cases such notice shall be effective on the date of receipt by the Borrower.

3.10. Requirements of Law.

If, after the date hereof, the adoption of or any change in any Requirement of Law or in the interpretation or application thereof applicable to any Lender, or compliance by any Lender with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority, in each case made subsequent to the Effective Date (or, if later, the date on which such Lender becomes a Lender):

(a) shall impose, modify, or hold applicable any reserve, special deposit, compulsory loan, or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans, or other extensions of credit by, or any other acquisition of funds by, any office of such Lender that is not otherwise included in the determination of LIBOR or TIIE hereunder; or

(b) shall impose on such Lender any other condition (excluding any tax of any kind whatsoever);

and the result of any of the foregoing is to increase the cost to such Lender, by an amount that such Lender reasonably deems to be material, of making, converting into, continuing, or maintaining, as applicable, LIBOR Loans or Mexican-Rate Loans or to reduce any amount receivable hereunder in respect thereof, then, in any such case, upon notice delivered to the Borrower from such Lender, through the Administrative Agent, in accordance herewith, the Borrower shall be obligated to promptly pay such Lender, upon its demand, any additional amounts necessary to compensate such Lender for such increased cost or reduced amount receivable; *provided that*, in any such case, the Borrower may elect to convert the LIBOR Loans made by such Lender hereunder to Base Rate Loans by giving the Administrative Agent at least one (1) Business Day's notice of such election. If any Lender becomes entitled to claim any additional amounts pursuant to this Section, it shall provide notice thereof to the Borrower, promptly upon occurrence of such event, but in any case within three (3) days from the date of such event, through the Administrative Agent, certifying (x) that one of the events described in this

paragraph (a) has occurred and describing in reasonable detail the nature of such event, (y) as to the increased cost or reduced amount resulting from such event and (z) as to the additional amount demanded by such Lender and a reasonably detailed explanation of the calculation thereof. Such a certificate as to any additional amounts payable pursuant to this subsection submitted by such Lender, through the Administrative Agent, to the Borrower shall be conclusive and binding on the parties hereto in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder. If any Lender becomes aware of a proposed change in any Requirement of Law that would entitle it to claim any additional amounts pursuant to this Section it shall promptly, upon the Lender becoming aware of such event, provide notice to the Borrower through the Administrative Agent.

3.11. Substitute Lenders. If any Lender has demanded compensation (or if the Borrower is required to increase amounts payable hereunder) pursuant to Sections 3.04, 3.08 or 3.10 or has exercised its rights pursuant to Section 3.09(a)(iii), and such Lender does not waive its right to future additional compensation pursuant to Sections 3.04, 3.08 or 3.10, the Borrower shall have the right (i) to replace such Lender with a Substitute Lender or Substitute Lenders that shall succeed to the rights of such Lender under this Agreement upon execution of an Assignment and Assumption Agreement and payment by the Borrower of the related processing fee of U.S.$3,500 to the Administrative Agent; or (ii) to remove such Lender, reduce the Commitments by the amount of the Commitment of such Lender, and adjust the Commitment Percentage of each Lender such that the percentage of each other Lender shall be increased to equal the percentage equivalent of a fraction. The numerator of which is the Commitment of such other Lender and the denominator of which is the Commitments of the Lenders minus the Commitments of the Lender who demanded payment pursuant to Sections 3.04, 3.08 or 3.10 or exercised its rights pursuant to Section 3.09(a)(iii); *provided*, *however*, that such Lender shall not be replaced or removed hereunder until such Lender has been repaid in full all amounts owed to it pursuant to this Agreement and the other Transaction Documents (including Sections 3.06 and 3.08) unless any such amount is being contested by the Borrower in good faith.

3.12. Sharing of Payments, Etc.

(a) If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the Obligations owing to it any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) in excess of its Commitment Percentage of payments on account of the Obligations obtained by all the Lenders (an "excess payment"), such Lender shall forthwith (i) notify the Administrative Agent of such fact, and (ii) purchase from the other Lenders such participations in such Obligations owing to them as shall be necessary to cause such purchasing Lender to share the excess payment ratably with each of them; *provided*, *however*, that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender, such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's Commitment Percentage (according to the proportion of (A) the amount of such paying Lender's required repayment to (B) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of demonstrable error) of participations purchased pursuant to this Section 3.12 and will in each case notify the Lenders following any such purchases.

(b) If any Lender shall commence any action or proceeding in any court to enforce its rights hereunder after consultation with the other Lenders and, as a result thereof or in connection therewith, it shall receive any excess payment, then such Lender shall not be required

to share any portion of such excess payment with any Lender which has the legal right to, but does not, join in any such action or proceeding or commence and diligently prosecute a separate action or proceeding to enforce its rights in another court.

(c) The Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section 3.12 may exercise all its rights of set-off with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation.

3.13. Extension of Termination Date.

(a) The Borrower may, within ninety (90) days, but not less than sixty (60) days prior to February 28, 2011 (the " Extension Request Date"), by notice to the Administrative Agent (the "Extension Notice"), make written request of the Lenders to extend the Termination Date for an additional period of 364 days (the "Extended Termination Date"). The terms and conditions of the requested extension shall be included in the Extension Notice, including a summary of any changes to the terms of this Agreement proposed by the Borrower. The Administrative Agent will give prompt notice to each of the Lenders of its receipt of any such Extension Notice. Each Lender shall make a determination not later than thirty (30) days prior to the Extension Request Date (the "Extension Consent Date") as to whether or not it will agree to extend the Termination Date as requested (such approval of extension shall be an "Extension Consent"); *provided*, *however*, that failure by any Lender to make a timely response to the Borrower's request for extension of the Termination Date shall be deemed to constitute a refusal by such Lender to extension of the Termination Date.

(b) If by any Extension Consent Date, the Borrower and the Administrative Agent have not received an Extension Consent from any Lender, the Termination Date, as it relates to such Lender, shall not be extended and any Loans made by such Lender and all accrued and unpaid interest thereon shall be due and payable on such Termination Date.

(c) No refusal by any one Lender to consent to any extension of the Termination Date shall affect the extension of the Termination Date as it may relate to the Loans of any Lender that consents to such extension as provided in Section 3.13(a), and one or more Lenders may consent to the extension of the Termination Date as it relates to them not withstanding any refusal by any other Lenders so to consent. For the avoidance of doubt, approval of all Lenders shall not be required for any Lender to accept the extension request.

(d) If any Lender does not deliver an Extension Consent as provided in Section 3.13(a), upon the repayment of the Loans of such Lender pursuant to Section 3.13(b), the Borrower may with the approval of the Administrative Agent amend this Agreement as provided in Section 13.02 and 13.06 to add one or more other Lenders as parties, with such Loans as may be agreed to by the Administrative Agent and such other Lender or Lenders.

(e) The Administrative Agent shall promptly advise each Lender of any change in the Aggregate Exposure and shall promptly provide each of the Lenders with a copy of any amendment made pursuant to Section 3.13(d).

(f) If pursuant to this Section, any Lender agrees to extend its Termination Date, then, effective as of the Termination Date, the Termination Date with respect to such Lenders shall be extended to the Extended Termination Date (except that, if such date is not a Business Day, such Termination Date as so extended shall be the next preceding Business Day).

ARTICLE IV
CONDITIONS PRECEDENT

4.01. Conditions to Effectiveness. The obligations of the Lenders under this Agreement are subject to the satisfaction or waiver of the following conditions precedent (the date on which all such conditions precedent are satisfied or waived being the " Effective Date"):

(a) Agreement. The Administrative Agent shall have received counterparts of this Agreement duly executed by each party hereto.

(b) Opinions of Borrower's and each Guarantor's Counsel. The Administrative Agent shall have received (i) the opinion of Skadden, Arps, Slate, Meagher & Flom LLP, New York counsel to the Borrower and the Guarantors, in substantially the form of Exhibit E, and (ii) the opinion of Lic. Ramiro G. Villareal Morales, Mexican counsel to the Borrower, in substantially the form of Exhibit F.

(c) Opinion of Counsel to the Administrative Agent. The Administrative Agent shall have received (i) a favorable opinion of Ritch Mueller, S.C., special Mexican counsel to the Administrative Agent and the Lenders, and (ii) the opinion of Clifford Chance US LLP, New York counsel to the Lenders.

(d) Governmental Approvals. The Administrative Agent shall have received certified copies of any and all necessary approvals, authorizations, or consents of, or notices to, or registrations with any Governmental Authority required for the Borrower and each Guarantor to enter into, or perform its obligations under, the Transaction Documents.

(e) Organizational Documents of the Borrower and the Guarantors. The Administrative Agent shall have received certified copies of (i) the *acta constitutiva* and *estatutos sociales* in effect on the Effective Date of the Borrower and each Guarantor, (ii) the powers-of-attorney of each Person executing any Transaction Document on behalf of the Borrower and each Guarantor, together with specimen signatures of such Person, and (iii) all documents evidencing other necessary corporate action and governmental approvals, if any, with respect to the authorization for the execution, delivery and performance of each such Transaction Document and the transactions contemplated hereby and thereby. All certificates shall state that the resolutions or other information referred to in such certificates have not been amended, modified, revoked or rescinded as of the date of such certificates (which shall not be earlier than five (5) Business Days before the Effective Date).

(f) Agent for Service of Process. The Administrative Agent shall have received a power of attorney, notarized under Mexican law, granted by the Borrower and each Guarantor to the Process Agent in respect of the Transaction Documents together with evidence that the Process Agent has accepted its appointment as Process Agent pursuant to Section 13.12.

(g) Fees and Expenses. The Borrower shall have paid all applicable and duly substantiated reasonable fees and expenses owing to the Lenders and the Administrative Agent to the extent of and payable on or before the Effective Date of the Agreement, and all other fees and expenses owing hereunder and under the Fee Letters to the extent due and payable on or before the Effective Date of the Agreement.

(h) No Default. No Default or Event of Default shall have occurred and be continuing either prior to or after giving effect to the transactions contemplated on the Effective Date, and the Borrower and each Guarantor shall have provided a certificate from a Responsible Officer of the Borrower to such effect to the Administrative Agent.

(i) Representations and Warranties. The representations and warranties of the Borrower and of each Guarantor contained in this Agreement and each other Transaction Document shall be true on and as of the Effective Date, and the Borrower and each Guarantor shall have provided a certificate to such effect to the Administrative Agent.

(j) No Material Adverse Effect. No Material Adverse Effect shall have occurred since December 31, 2007 (excluding the financial condition and events specifically disclosed in (i) the Borrower's filings made with the US Securities and Exchange Commission or the *Bolsa Mexicana de Valores, S.A.B. de C.V.* after December 31, 2007, (ii) in the Borrower's unaudited financial statements for each of the first three Quarterly Periods of 2008) or (iii) in the guidance relating to the fourth financial quarter of 2008 published by the Borrower on December 15, 2008 on its web page, and there shall have occurred no circumstance and/or event of a financial, political or economic nature in Mexico that has a reasonable likelihood of having a material adverse effect on the ability of the Borrower or the Guarantors to perform their obligations under this Agreement and the other Transaction Documents.

(k) No Litigation. Except as set forth in Schedule 5.06, there is no pending or threatened action, suit, investigation, litigation or proceeding, affecting the Borrower or any of its Subsidiaries before any court, Governmental Authority or arbitrator that (a) would be reasonably likely to have a Material Adverse Effect or (b) purports to affect the legality, validity or enforceability of any Transaction Document or the consummation of the transactions contemplated thereby, and the Borrower shall have provided a certificate from a Responsible Officer of the Borrower to such effect to the Administrative Agent.

(l) Derivatives Agreements. The Administrative Agent shall have received a schedule, in the form of Schedule 4.01(l), evidencing the outstanding Derivatives agreements to which the Borrower or any Subsidiary is a party showing the aggregate marked-to-market position in respect of each such Derivatives agreement by the category (i.e. interest rate derivatives, currency derivatives, capital hedges and equity derivatives), as of the date falling four (4) Business Days prior to the Effective Date.

(m) Other Documents. The Administrative Agent shall have received such other certificates, powers of attorney and other documents and undertakings relating to the authority for, and the execution, delivery and validity of, the Transaction Documents, as may be reasonably requested by the Administrative Agent or any Lender through the Administrative Agent.

4.02. Conditions Precedent to Borrowing. The obligation of any Lender to make a Loan on the Disbursement Date is subject to the satisfaction of the following conditions:

(a) Notes. There shall have been delivered to the Administrative Agent, for the account of such Lender, a Note executed by the Borrower and the Guarantors through their duly empowered representatives;

(b) Notices. The Administrative Agent shall have received the Notice of Borrowing;

(c) No Default. Immediately before and after giving effect to the Borrowing, no Default or Event of Default shall have occurred and be continuing and the Borrowing will not cause or result in a Default or Event of Default;

(d) Representations and Warranties. The representations and warranties of the Borrower contained in this Agreement and in each other Transaction Document and of each Guarantor contained in this Agreement shall be true and correct in all material respects on and as of the date of the Borrowing;

(e) Existing Bilateral Facilities. Arrangements (satisfactory to the Joint Arrangers) shall be in place providing for the simultaneous prepayment of outstanding indebtedness under each of the Existing Bilateral Facilities that is expected to be prepaid from the proceeds of the Loans; and

(f) CEMEX España 2009 Facility and CEMEX España Tranche B Facility. The Administrative Agent shall have received evidence reasonably satisfactory to the Joint Arrangers that (i) all conditions of the CEMEX España Facility shall have been satisfied or waived and the deemed funding thereunder has occurred or will simultaneously occur with the funding of the Loans and (ii) the CEMEX España Tranche B Extension, in an amount greater than U.S.$1,500,000,000 has become effective or will simultaneously become effective with the funding of the Loans.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF THE BORROWER

The Borrower represents and warrants that:

5.01. Corporate Existence and Power.

(a) The Borrower is a corporation (*sociedad anónima bursátil de capital variable*) duly incorporated, validly existing and in good standing under the laws of Mexico and has all requisite corporate power and authority (including all governmental licenses, permits and other approvals except for such licenses, permits and approvals the absence of which will not have a Material Adverse Effect) to own its assets and carry on its business as now conducted and as proposed to be conducted.

(b) All of the outstanding stock of the Borrower has been validly issued and is fully paid and non-assessable.

5.02. Power and Authority; Enforceable Obligations.

(a) The execution, delivery and performance by the Borrower of each Transaction Document to which it is or will be a party, and the consummation of the transactions contemplated hereby and thereby, are within the Borrower's corporate powers and have been duly authorized by all necessary corporate action pursuant to the *estatutos sociales* of the Borrower.

(b) This Agreement and the other Transaction Documents to which the Borrower is a party have been (or, in the case of the Notes, when executed and delivered, will have been) duly executed and delivered by the Borrower and constitute (or, in the case of the Notes, when executed and delivered, will constitute) the legal, valid and binding obligations of the Borrower enforceable in accordance with their respective terms, except as enforceability may be limited by applicable *concurso mercantil*, bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equity principles.

5.03. Compliance with Law and Other Instruments. The execution, delivery of and performance under this Agreement and each of the other Transaction Documents to which the Borrower is a party and the consummation of the transactions herein or therein contemplated, and compliance with the terms and provisions hereof and thereof, do not and will not (a) conflict with, or result in a breach or violation of, or constitute a default under, or result in the creation or imposition of any Lien upon the assets of the Borrower pursuant to, any Contractual Obligation of the Borrower or (b) result in any violation of the estatutos sociales of the Borrower or any provision of any Requirement of Law applicable to the Borrower.

5.04. Consents/Approvals. No order, permission, consent, approval, license, authorization, registration or validation of, or notice to or filing with, or exemption by, any Governmental Authority or third party is required to authorize, or is required in connection with, the execution, delivery and performance by the Borrower of this Agreement and the other Transaction Documents to which the Borrower is a party or the taking of any action contemplated hereby or by any other Transaction Document.

5.05. Financial Information. The consolidated balance sheet of the Borrower and its Subsidiaries as at December 31, 2007, and the related consolidated statements of income and cash flows of the Borrower and its Subsidiaries for the fiscal year then ended, accompanied by an opinion of KPMG Cardenas Dosal, S.C., independent public accountants, and the consolidated balance sheet of the Borrower and its Subsidiaries as at September 30, 2008, and the related consolidated statements of income and cash flows of the Borrower and its Subsidiaries for the three months then ended, duly certified by a Responsible Officer of the Borrower, copies of which have been furnished to each Lender, fairly present, subject, in the case of said balance sheet as at September 30, 2008, and said statements of income and cash flows for the three months then ended, to year-end audit adjustments, the consolidated financial condition of the Borrower and its Subsidiaries as at such dates and the consolidated results of the operations of the Borrower and its Subsidiaries for the periods ended on such dates, all in accordance with Mexican FRS, consistently applied.

5.06. Litigation. Except as set forth in Schedule 5.06, as of the Effective Date, there is no pending or threatened action, suit, investigation, litigation or proceeding, including any Environmental Action, affecting the Borrower or any of its Subsidiaries before any court, Governmental Authority or arbitrator that (a) would be reasonably likely to have a Material Adverse Effect or (b) purports to affect the legality, validity or enforceability of any Transaction Document or the consummation of the transactions contemplated thereby, and there has been no adverse change in the status, or financial effect on the Borrower or any of its Subsidiaries, of the litigation described in Schedule 5.06.

5.07. No Immunity. The Borrower is subject to civil and commercial law with respect to its obligations under this Agreement and each other Transaction Document to which it is a party and the execution, delivery and performance of this Agreement or any such other Transaction Document by the Borrower constitute private and commercial acts rather than public or governmental acts. Under the laws of Mexico neither the Borrower nor any of its property has any immunity from jurisdiction of any court or any legal process (whether through service or notice, attachment prior to judgment or attachment in aid of execution).

5.08. Governmental Regulations. The Borrower is not, and is not controlled by, an "investment company" within the meaning of the United States Investment Company Act of 1940, as amended.

5.09. Direct Obligations; Pari Passu; Liens.

(a) (i) This Agreement constitutes a direct, unconditional unsubordinated and unsecured obligation of the Borrower, and (ii) the Loans, when made, will constitute direct, unconditional unsubordinated and unsecured obligations of the Borrower.

(b) The obligations of the Borrower under this Agreement and the Loans rank and will rank in priority of payment at least *pari passu* with all other senior unsecured Debt of the Borrower.

(c) There are no Liens on the property of the Borrower or any of its Subsidiaries other than Permitted Liens.

5.10. Subsidiaries. All Material Subsidiaries of the Borrower as of September 30, 2008 are listed on Schedule 5.10.

5.11. Ownership of Property. (a) Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect, each of the Borrower and its Subsidiaries has title in fee simple to, or a valid leasehold interest in, all its real property, and good title to, or a valid leasehold interest in, all its other property, and none of such property is subject to any Lien except Permitted Liens, except as set forth in the Risk Factors in the Borrower's Form 20-F for the year ended December 31, 2007 filed with the U.S. Securities and Exchange Commission (the " SEC") and updated in the Borrower's Form 6-K filed on August 19, 2008 with the SEC, in each case, with respect to Capital Stock in and assets of CEMEX Venezuela S.A.C.A., and (b) each Credit Party maintains insurance as required by Section 7.05.

5.12. No Recordation Necessary.

(a) This Agreement is, and when executed the Notes will be, in proper legal form under the law of Mexico for the enforcement thereof against the Borrower under the law of Mexico. To ensure the legality, validity, enforceability or admissibility in evidence of this Agreement and each other Transaction Document in Mexico, it is not necessary that this Agreement or any other Transaction Document be filed or recorded with any Governmental Authority in Mexico or that any stamp or similar tax be paid on or in respect of this Agreement or any other document to be furnished under this Agreement, unless such stamp or similar taxes have been paid by the Borrower; *provided*, *however*, that in the event any legal proceedings are brought in the courts of Mexico, an official Spanish translation of the documents required in such proceedings, including this Agreement, would have to be approved by the court after the defendant is given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents.

(b) It is not necessary (i) in order for the Administrative Agent or any Lender to enforce any rights or remedies under the Transaction Documents, or (ii) solely by reason of the execution, delivery and performance of this Agreement by the Administrative Agent or any Lender, that the Administrative Agent or such Lender be licensed or qualified with any Mexican Governmental Authority or be entitled to carry on business in Mexico.

5.13. Taxes.

(a) Each Obligor has filed all material tax returns which are required to be filed by it and has paid all taxes due pursuant to such returns or pursuant to any material assessment

received by the Borrower, except where the same may be contested in good faith by appropriate proceedings and as to which such Obligor maintains reserves to the extent it is required to do so by law or pursuant to Mexican FRS. The charges, accruals and reserves on the books of each Obligor in respect of taxes or other governmental charges are, in the opinion of the Borrower, adequate.

(b) Except for taxes imposed by way of withholding on interest, fees and commissions paid to non-Mexican residents, there is no tax (other than taxes on, or measured by, income or profits), levy, impost, deduction, charge or withholding imposed, levied, charged, assessed or made by or in Mexico or any political subdivision or taxing authority thereof or therein either (i) on or by virtue of the execution or delivery of this Agreement or any of the other Transaction Documents or (ii) on any payment to be made by the Borrower pursuant to this Agreement or any of the other Transaction Documents. The Borrower and each Guarantor is permitted to pay any additional amounts payable pursuant to Section 3.04.

5.14. Compliance with Laws. The Borrower and its Subsidiaries are in compliance in all material respects with all applicable Requirements of Law (including with respect to the licenses, certificates, permits, franchises, and other governmental authorizations necessary to the ownership of their respective properties or to the conduct of their respective businesses, antitrust laws or Environmental Laws and the rules and regulations and laws with respect to social security, workers' housing funds, and pension funds obligations), except where the failure to so comply would not have a Material Adverse Effect.

5.15. Absence of Default. No Default or Event of Default has occurred and is continuing.

5.16. Full Disclosure. All information heretofore furnished by the Borrower to the Administrative Agent, the Joint Arrangers or any Lender for purposes of or in connection with this Agreement or any transaction contemplated hereby (other than projections and other "forward-looking" information that have been prepared on a reasonable basis and in good faith by the Borrower) is, and all such information hereafter furnished by the Borrower to the Administrative Agent, the Joint Arrangers or any Lender will be, true and accurate in all material respects on the date as of which such information is stated or certified and does not omit to state any material fact necessary in order to make the statements contained herein or therein, taken as a whole, not misleading. The Borrower has disclosed to the Lenders in writing any and all facts which may have a Material Adverse Effect.

5.17. Choice of Law; Submission to Jurisdiction and Waiver of Sovereign Immunity . In any action or proceeding involving the Borrower arising out of or relating to this Agreement in any Mexican court or tribunal, any Lender, the Joint Arrangers and the Administrative Agent would be entitled to the recognition and effectiveness of the choice of law, submission to jurisdiction and waiver of sovereign immunity provisions of Sections 13.10, 13.11 and 13.13.

5.18. Aggregate Exposure. The Aggregate Exposure does not exceed the Aggregate Committed Amount.

5.19. Pension and Welfare Plans. During the consecutive twelve-month period prior to the date of the execution and delivery of this Agreement and prior to the date of any Borrowing hereunder, no steps have been taken to terminate any Pension Plan, and no contribution failure has occurred with respect to any Pension Plan sufficient to give rise to a Lien under Section 303(k) of ERISA. No condition exists or event or transaction has occurred with respect to any Pension Plan which would reasonably be expected to result in the incurrence by any Credit Party, any of its Subsidiaries, or any its

ERISA Affiliates of any material liability (other than liabilities incurred in the ordinary course of maintaining the Pension Plan), fine or penalty. No Credit Party, nor any of its Subsidiaries, has any contingent liability with respect to any post-retirement benefit under a Welfare Plan subject to ERISA which would reasonably be expected to have a Material Adverse Effect, other than liability for continuation coverage described in Part 6 of Title I of ERISA.

5.20. Environmental Matters.

Except as would not have or be reasonably expected to have a Material Adverse Effect:

(a) Each of the properties owned or leased by a Credit Party or any of its Subsidiaries (the " Real Properties") and all operations at the Real Properties are in compliance with all applicable Environmental Laws, and there is no violation of any Environmental Law with respect to the Real Properties or the businesses operated by the Credit Parties or any of their Subsidiaries (the " Businesses"), and there are no conditions relating to the Businesses or Real Properties that would reasonably be expected to give rise to liability under any applicable Environmental Laws.

(b) No Credit Party has received any written notice of, or inquiry from any Governmental Authority regarding, any violation, alleged violation, non-compliance or liability regarding Hazardous Materials or compliance with Environmental Laws with regard to any of the Real Properties or the Businesses, nor, to the knowledge of a Credit Party or any of its Subsidiaries, is any such notice being threatened.

(c) Hazardous Materials have not been transported or disposed of from the Real Properties, or generated, treated, stored or disposed of at, on or under any of the Real Properties or any other location, in each case by, or on behalf or with the permission of, a Credit Party or any of its Subsidiaries in a manner that would give rise to liability under any applicable Environmental Laws.

(d) No judicial proceeding or governmental or administrative action is pending or, to the knowledge of a Credit Party or any of its Subsidiaries, threatened, under any Environmental Law to which a Credit Party or any of its Subsidiaries is or will be named as a party, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to a Credit Party or any of its Subsidiaries, the Real Properties or the Businesses.

(e) There has been no release (including disposal) or to the Borrower's knowledge, threat of release of Hazardous Materials at or from the Real Properties, or arising from or related to the operations of a Credit Party or any of its Subsidiaries in connection with the Real Properties or otherwise in connection with the Businesses where such release constituted a violation of, or would give rise to liability under, any applicable Environmental Laws.

(f) None of the Real Properties contains any Hazardous Materials at, on or under the Real Properties in amounts or concentrations that, if released, constitute a violation of, or could give rise to liability under, Environmental Laws.

(g) No Credit Party, nor any of its Subsidiaries, has assumed any liability of any Person (other than another Credit Party or one of its Subsidiaries) under any Environmental Law.

(h) This Section 5.20 constitutes the only representations and warranties of the Credit Parties with respect to any Environmental Law or Hazardous Substance.

5.21. Margin Regulations. No part of the proceeds of the Loans hereunder will be used, directly or indirectly, for the purpose of purchasing or carrying any "margin stock" within the meaning of Regulation U, or for the purpose of purchasing or carrying or trading in any securities. If requested by any Lender or Participant or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender or Participant a statement to the foregoing effect in conformity with the requirements of FR Form U-1 referred to in said Regulation U. No indebtedness being reduced or retired out of the proceeds of the Loans hereunder was or will be incurred for the purpose of purchasing or carrying any margin stock within the meaning of Regulation U, except in compliance with Regulation U or any "margin security" within the meaning of Regulation T, except in compliance with Regulation T. Neither the execution and delivery hereof by the Borrower, nor the performance by it of any of the transactions contemplated by this Agreement (including the direct or indirect use of the proceeds of the Loans) will violate or result in a violation of the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or regulations issued pursuant thereto, or Regulation T, U, or X.

5.22. No Material Adverse Change. No Material Adverse Effect has occurred since December 31, 2007 (excluding the financial condition and events previously disclosed in (i) the Borrower's filings made with the US Securities and Exchange Commission or the *Bolsa Mexicana de Valores, S.A.B de C.V.* after December 31, 2007; or (ii) in the Borrower's unaudited financial statements for each of the first three Quarterly Periods of 2008).

5.23. Solvency. The Borrower and each Guarantor is, and after giving effect to the Loans and each of the transactions contemplated by this Agreement and the Transaction Documents will be, Solvent.

ARTICLE VI
REPRESENTATIONS AND WARRANTIES OF THE GUARANTORS

Each of the Guarantors separately represents and warrants that:

6.01. Corporate Existence and Power.

(a) Such Guarantor is a corporation (*sociedad anónima de capital variable*) duly incorporated, validly existing and in good standing under the laws of Mexico and has all requisite corporate power and authority (including all governmental licenses, permits and other approvals except for such licenses, permits and approvals the absence of which will not have a Material Adverse Effect) to own its assets and carry on its business as now conducted and as proposed to be conducted.

(b) All of the outstanding stock of such Guarantor has been validly issued and is fully paid and non-accessible.

6.02. Power and Authority; Enforceable Obligations.

(a) The execution, delivery and performance by such Guarantor of each Transaction Document to which it is or will be a party, and the consummation of the transactions contemplated hereby and thereby, are within such Guarantor's corporate powers and have been duly authorized by all necessary corporate action pursuant to the *estatutos sociales* of such Guarantor.

(b) This Agreement and the other Transaction Documents to which such Guarantor is a party have been duly executed and delivered by such Guarantor and constitute legal, valid and binding obligations of such Guarantor enforceable in accordance with their respective terms, except as enforceability may be limited by applicable *concurso mercantil*, bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equity principals.

6.03. Compliance with Law and Other Instruments. The execution, delivery and performance of this Agreement and any of the other Transaction Documents to which such Guarantor is a party and the consummation of the transactions herein or therein contemplated, and compliance with the terms and provisions hereof and thereof, do not and will not (a) conflict with, or result in a breach or violation of, or constitute a default under, or result in the creation or imposition of any Lien upon the assets of such Guarantor pursuant to, any Contractual Obligation of such Guarantor or (b) result in any violation of the *estatutos sociales* of such Guarantor or any provision of any Requirement of Law applicable to such Guarantor.

6.04. Consents/Approvals. No order, permission, consent, approval, license, authorization, registration or validation of, or notice to or filing with, or exemption by, any Governmental Authority or third party is required to authorize, or is required in connection with, the execution, delivery and performance by such Guarantor of this Agreement and the other Transaction Documents to which such Guarantor is a party or the taking of any action contemplated hereby or by any other Transaction Document.

6.05. Litigation; Material Adverse Effect. Except as set forth in Schedule 5.06, there is no pending or threatened action, suit, investigation, litigation or proceeding, including any Environmental Action, affecting the Borrower or any of its Subsidiaries before any court, Governmental Authority or arbitrator that (i) would be reasonably likely to have a Material Adverse Effect or (ii) purports to affect the legality, validity or enforceability of any Transaction Document or the consummation of the transactions contemplated thereby, and there has been no adverse change in the status, or financial effect on the Borrower or any of its Subsidiaries, of the litigation described in Schedule 5.06.

6.06. No Immunity. Such Guarantor is subject to civil and commercial law with respect to its obligations under this Agreement and each other Transaction Document to which it is a party and the execution, delivery and performance of this Agreement or any such other Transaction Document by such Guarantor constitute private and commercial acts rather than public or governmental acts. Under the laws of Mexico neither such Guarantor nor any of its property has any immunity from jurisdiction of any court or any legal process (whether through service or notice, attachment prior to judgment or attachment in aid of execution).

6.07. Governmental Regulations. Such Guarantor is not, and is not controlled by, an "investment company" within the meaning of the United States Investment Company Act of 1940, as amended.

6.08. Direct Obligations; Pari Passu.

(a) This Agreement constitutes a direct, unconditional unsubordinated and unsecured obligation of such Guarantor.

(b) The obligations of such Guarantor under this Agreement rank and will rank in priority of payment at least *pari passu* with all other senior unsecured Debt of such Guarantor.

6.09. No Recordation Necessary. This Agreement is, and when executed the Notes will be, in proper legal form under the law of Mexico for the enforcement thereof against such Guarantor under the law of Mexico. To ensure the legality, validity, enforceability or admissibility in evidence of this Agreement and each other Transaction Document in Mexico, it is not necessary that this Agreement or any other Transaction Document be filed or recorded with any Governmental Authority in Mexico or that any stamp or similar tax be paid on or in respect of this Agreement or any other document to be furnished under this Agreement unless such stamp or similar taxes have been paid by the Borrower or the Guarantors; *provided*, *however*, that in the event any legal proceedings are brought in the courts of Mexico, an official Spanish translation of the documents required in such proceedings, including this Agreement, would have to be approved by the court after the defendant is given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents.

6.10. Choice of Law; Submission to Jurisdiction and Waiver of Sovereign Immunity. In any action or proceeding involving such Guarantor arising out of or relating to this Agreement in any Mexican court or tribunal, the Lenders, the Joint Arrangers and the Administrative Agent would be entitled to the recognition and effectiveness of the choice of law, submission to jurisdiction and waiver of sovereign immunity provisions of Sections 13.10, 13.11 and 13.13.

ARTICLE VII
AFFIRMATIVE COVENANTS

The Borrower covenants and agrees that for so long as any Obligation under this Agreement or any other Transaction Document remains unpaid or any Lender has any Commitment hereunder:

7.01. Financial Reports and Other Information. The Borrower will deliver to the Administrative Agent (with a copy for each Lender):

(a) as soon as available and in any event within one hundred and twenty (120) days after the end of each fiscal year of the Borrower, a copy of the annual audit report for such year for the Borrower and its Subsidiaries containing consolidated and consolidating balance sheets of the Borrower and its Subsidiaries, as of the end of such fiscal year and consolidated statements of income and cash flows of the Borrower and its Subsidiaries, for such fiscal year, in each case accompanied by an opinion acceptable to the Required Lenders by KPMG Cardenas Dosal, S.C. or other independent public accountants of recognized standing acceptable to the Required Lenders, together with (i) a certificate of such accounting firm to the Lenders stating that in the course of the regular audit of the business of the Borrower and its Subsidiaries, which audit was conducted by such accounting firm in accordance with Mexican FRS, such accounting firm has obtained no knowledge that a Default or Event of Default has occurred and is continuing, or if, in the opinion of such accounting firm a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and (ii) a certificate of a Responsible Officer of the Borrower, stating that no Default or Event of Default has occurred and is continuing or, if a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and the action that the Borrower has taken and proposes to take with respect thereto; *provided that*, in the event of any change in the Mexican FRS used in the preparation of such financial statements, the Borrower shall also provide, for informational purposes only, a statement of reconciliation conforming such financial statements to Mexican FRS consistent with those applied in the preparation of the financial statements referred to in Section 5.05 and *provided further that*, all such documents will be prepared in English; and

(b) as soon as available and in any event within sixty (60) days after the end of each of the first three quarters of each fiscal year of the Borrower, consolidated balance sheets of the Borrower and its Subsidiaries, as of the end of such quarter and consolidated statements of income and cash flows of the Borrower and its Subsidiaries for the period commencing at the end of the previous fiscal year and ending with the end of such quarter, duly certified (subject to year-end audit adjustments) by a Responsible Officer of the Borrower as having been prepared in accordance with Mexican FRS and together with a certificate of a Responsible Officer of the Borrower, as to compliance with the terms of this Agreement and stating that no Default or Event of Default has occurred and is continuing or, if a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and the action that the Borrower has taken and proposes to take with respect thereto; *provided that*, in the event of any change in the Mexican FRS used in the preparation of such financial statements, the Borrower shall also provide, for informational purposes only, a statement of reconciliation conforming such financial statements to Mexican FRS consistent with those applied in the preparation of the financial statements referred to in Section 5.05 and *provided further that* all such documents will be prepared in English.

7.02. Notice of Default and Litigation. The Borrower will furnish to the Administrative Agent (and the Administrative Agent will notify each Lender):

(a) as soon as practicable and in any event within five (5) days after the occurrence of each Default or Event of Default continuing on the date of such statement, a statement of a Responsible Officer of the Borrower setting forth details of such Default or Event of Default and the action that the Borrower has taken and proposes to take with respect thereto; and

(b) promptly after the commencement thereof, notice of all litigation, actions, investigations and proceedings before any court, Governmental Authority or arbitrator affecting the Borrower or any of its Subsidiaries of the type described in Section 5.06 or the receipt of written notice by the Borrower or any of its subsidiaries of potential liability or responsibility for violation, or alleged violation of any federal, state or local law, rule or regulation (including Environmental Laws) the violation of which could reasonably be expected to have a Material Adverse Effect.

7.03. Compliance with Laws and Contractual Obligations, Etc. The Borrower will comply, and cause each of its Subsidiaries to comply, in all material respects, with all applicable Requirements of Law (including with respect to the licenses, approvals, certificates, permits, franchises, notices, registrations and other governmental authorizations necessary to the ownership of its respective properties or to the conduct of its respective business, antitrust laws or Environmental Laws and laws with respect to social security and pension funds obligations) and all material Contractual Obligations, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect.

7.04. Payment of Obligations. The Borrower will pay and discharge, and cause each of its Subsidiaries to pay and discharge, before the same shall become delinquent, (a) all taxes, assessments and governmental charges or levies assessed, charged or imposed upon it or upon its property and (b) all lawful claims that, if unpaid, might by law become a Lien upon its property, except where the failure to make such payments or effect such discharges could not reasonably be expected to have a Material Adverse Effect; *provided*, *however*, that neither the Borrower nor any of its Subsidiaries shall be

required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim that is being contested in good faith and by proper proceedings and as to which appropriate reserves are being maintained, unless and until any Lien resulting therefrom attaches to its property and becomes enforceable against its other creditors.

7.05. Maintenance of Insurance. The Borrower will maintain, and cause each of its Subsidiaries to maintain, insurance with reputable insurance companies or associations in such amounts and covering such risks as is usually carried by companies of established reputation engaged in similar businesses and owning similar properties in the same general areas in which the Borrower or such Subsidiary operates.

7.06. Conduct of Business and Preservation of Corporate Existence. The Borrower will continue to engage in business of the same general type as now conducted by the Borrower and will preserve and maintain, and cause each of its Material Subsidiaries to preserve and maintain, its corporate existence, rights (charter and statutory), licenses, consents, permits, notices or approvals and franchises deemed material to its business; *provided that* neither the Borrower nor any of its Subsidiaries shall be required to maintain its corporate existence in connection with a merger or consolidation in compliance with Section 8.03; and *provided*, *further* that neither the Borrower nor any of its Subsidiaries shall be required to preserve any right or franchise if the Borrower or any such Subsidiary shall in its good faith judgment, determine that the preservation thereof is no longer in the best interests of the Borrower or such Subsidiary, as the case may be, and that the loss thereof could not reasonably be expected to have a Material Adverse Effect.

7.07. Books and Records. The Borrower will keep, and cause each of its Subsidiaries to keep, proper books of record and account, in which full and correct entries shall be made of all financial transactions and the assets and business of the Borrower and each such Subsidiary in accordance with Mexican FRS, consistently applied.

7.08. Maintenance of Properties, Etc. The Borrower will:

(a) maintain and preserve, and cause each of its Subsidiaries to maintain and preserve, all of its properties that are used or useful in the conduct of its business in good working order and condition, ordinary wear and tear excepted, and

(b) maintain, preserve and protect all intellectual property and all necessary governmental and third party approvals, franchises, licenses and permits, material to the business of the Borrower or its Subsidiaries, *provided* neither paragraph (a) nor this paragraph (b) shall prevent the Borrower or any of its Subsidiaries from discontinuing the operation and maintenance of any of its properties or allowing to lapse certain approvals, licenses or permits which discontinuance is desirable in the conduct of its business and which discontinuance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

7.09. Use of Proceeds. The Borrower will use the proceeds of all Loans made hereunder solely to make repayments or prepayments of the Existing Bilateral Facilities, together with related interest, fees, costs and expenses incurred in connection therewith and related to this Agreement.

7.10. Pari Passu Ranking. The Borrower will ensure that at all times the Obligations of the Borrower and each of the Guarantors under the Transaction Documents constitute unconditional general obligations of such Obligor ranking in priority of payment at least *pari passu* with all other senior unsecured, unsubordinated Debt of such Obligor.

7.11. Transactions with Affiliates. The Borrower will conduct, and cause each of its Subsidiaries to conduct, all transactions otherwise permitted under this Agreement with any of its Affiliates on terms that are commercially reasonable and no less favorable to the Borrower or such Subsidiary than it would obtain in a comparable arm's-length transaction with a Person not an Affiliate.

7.12. Maintenance of Governmental Approvals. The Borrower will maintain in full force and effect at all times all approvals of and filings with any Governmental Authority or third party required under applicable law for the conduct of its business (including, without limitation, antitrust laws or Environmental Laws) and the performance of the Obligors' obligations hereunder and under the other Transaction Documents by the Borrower and/or the Guarantors, as applicable, and for the validity or enforceability hereof and thereof, except where failure to maintain any such approvals or filings could not reasonably be expected to have a Material Adverse Effect.

7.13. Inspection of Property. At any reasonable time during normal business hours and from time to time with at least ten (10) Business Days prior notice, or at any time if a Default or Event of Default shall have occurred and be continuing, permit the Administrative Agent or any of the Lenders or any agents or representatives thereof to examine and make abstracts from the records and books of account of, and visit the properties of, each of the Borrower or the Guarantors, and to discuss the affairs, finances and accounts of the Borrower or such Guarantor with any of its officers or directors and with its independent certified public accountants. All expenses associated with such inspection shall be borne by the inspecting Lenders; *provided that* if a Default or an Event of Default shall have occurred and be continuing, any expenses associated with such inspection shall be borne jointly and severally by the Borrower and the Guarantors.

7.14. Asset Sales. The Borrower shall, and shall procure that its Subsidiaries shall, use commercially reasonable efforts to make Asset Sales on or before June 30, 2009, the aggregate Net Cash Proceeds of which shall be no less than U.S.$1,000,000,000; *provided that*, each such Asset Sale shall be on terms reasonably acceptable to the Borrower; *provided further that*, if Asset Sales in such amount are not made by such date, the Borrower shall, or shall procure that a Subsidiary shall, use commercially reasonable efforts to complete a Securities Issuance pursuant to Section 2.01(h)(ii).

ARTICLE VIII
NEGATIVE COVENANTS

The Borrower covenants and agrees that for so long as any Obligation under this Agreement or any other Transaction Document remains unpaid or any Lender has any Commitment hereunder:

8.01. Financial Conditions.

(a) The Borrower shall not permit the Consolidated Net Debt / EBITDA Ratio at any time to exceed:

(i) 4.50 to 1.0 during the Reference Period ending on March 31, 2009;

(ii) 4.75 to 1.0 during the Reference Period ending on June 30, 2009;

(iii) 4.50 to 1.0 during the Reference Period ending on each of September 30, 2009 and December 31, 2009;

(iv) 4.25 to 1.0 during the Reference Period ending on each of March 31, 2010 and June 30, 2010;

(v) 4.00 to 1.0 during the Reference Period ending September 30, 2010;

(vi) 3.75 to 1.0 during the Reference Period ending on each of December 31, 2010, March 31, 2011 and June 30, 2011; and

(vii) 3.50 to 1.0 during the Reference Period ending September 30, 2011 and during each Reference Period ending thereafter.

(b) The Borrower shall not permit the Consolidated Fixed Charge Coverage Ratio for any Reference Period to be less than 2.50 to 1.0.

(c) Concurrently with the delivery by the Borrower of any financial statements pursuant to Section 7.01, the Borrower shall deliver to the Administrative Agent (with a copy to each Lender) a certificate from a Responsible Officer containing all information and calculations necessary for determining compliance by the Borrower with Sections 8.01(a) and (b) above.

(d) For the purposes of calculating the Consolidated Net Debt to EBITDA Ratio in Section 8.01(a) above only, "Consolidated Net Debt" shall not include any Debt which notwithstanding falling within the definition of Debt, is not required to be recorded as a liability by the Borrower on its consolidated balance sheet in accordance with Mexican FRS.

8.02. Liens. The Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of the Borrower or any Subsidiary, whether now owned or held or hereafter acquired, other than the following Liens ("Permitted Liens"):

(a) Liens for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which adequate reserves or other appropriate provision, if any, as shall be required by Mexican FRS shall have been made;

(b) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Mexican FRS shall have been made;

(c) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security;

(d) any attachment or judgment Lien, unless the judgment it secures shall not, within sixty (60) days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within sixty (60) days after the expiration of any such stay;

(e) Liens that are described in Schedule 8.02(e) hereto;

(f) any Lien on property acquired by the Borrower after the date hereof that was existing on the date of acquisition of such property; *provided that* such Lien was not incurred in anticipation of such acquisition, and any Lien created to secure all or any part of the purchase price, or to secure Debt incurred or assumed to pay all or any part of the purchase price, of property acquired by the Borrower or any of its Subsidiaries after the date hereof; *provided*, *further*, that (A) any such Lien permitted pursuant to this clause (f) shall be confined solely to the item or items of property so acquired (including, in the case of any Acquisition of a corporation through the acquisition of fifty one percent (51%) or more of the voting stock of such corporation, the stock and assets of any Acquired Subsidiary or Acquiring Subsidiary) and, if required by the terms of the instrument originally creating such Lien, other property which is an improvement to, or is acquired for specific use with, such acquired property; and (B) if applicable, any such Lien shall be created within nine (9) months after, in the case of property, its acquisition, or, in the case of improvements, their completion;

(g) any Lien renewing, extending or refunding any Lien permitted by clause (f) above; *provided that* the principal amount of Debt secured by such Lien immediately prior thereto is not increased or the maturity thereof reduced and such Lien is not extended to other property;

(h) any Liens created on shares of capital stock of any of the Borrower's Subsidiaries solely as a result of the deposit or transfer of such shares into a trust or a special purpose vehicle (including any entity with legal personality) of which such shares constitute the sole assets; *provided that* (A) any shares of Subsidiary stock held in such trust, corporation or entity could be sold by the Borrower; and (B) proceeds from the deposit or transfer of such shares into such trust, corporation or entity and from any transfer of or distributions in respect of the Borrower's or any Subsidiary's interest in such trust, corporation or entity are applied as provided under Section 8.04; and *provided*, *further* that such Liens may not secure Debt of the Borrower or any Subsidiary (unless permitted under another clause of this Section 8.02);

(i) any Liens on securities securing repurchase obligations in respect of such securities;

(j) any Liens in respect of any Qualified Receivables Transaction;

(k) in addition to the Liens permitted by the foregoing clauses (a) through (j), Liens securing Debt of the Borrower and its Subsidiaries (taken as a whole) not in excess of five percent (5%) of the Adjusted Consolidated Net Tangible Assets of the Borrower and its Subsidiaries; and

(l) any Liens on "margin stock" purchased with the proceeds of the Loans within the meaning of Regulation U, if and to the extent the value of all "margin stock" of the Borrower and its Subsidiaries exceeds twenty five percent (25%) of the value of the total assets of the Borrower and its Subsidiaries;

unless, in each case, the Borrower has made or caused to be made effective provision whereby the Obligations hereunder are secured equally and ratably with, or prior to, the Debt secured by such Liens (other than Permitted Liens) for so long as such Debt is secured.

8.03. Consolidations and Mergers. None of the Guarantors nor the Borrower shall, in one or more related transactions, (x) consolidate with or merge into any other Person or permit any other Person to merge into it or (y), directly or indirectly, transfer, convey, sell, lease or otherwise dispose of all or substantially all of its properties or assets to any Person, unless, with respect to any transaction described in clause (x) or (y), immediately after giving effect to such transaction:

(a) the Person formed by any such consolidation or merger, if it is not the Borrower or such Guarantor, or the Person that acquires by transfer, conveyance, sale, lease or other disposition all or substantially all of the properties and assets of the Borrower or such Guarantor (any such Person, a "Successor") (i) shall be a corporation organized and validly existing under the laws of its place of incorporation, which in the case of a Successor to the Borrower shall be Mexico, the United States, Canada, France, Belgium, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain, Switzerland or the United Kingdom, or any political subdivision thereof, (ii) in the case of a Successor to the Borrower, shall expressly assume, pursuant to a written agreement in form and substance satisfactory to the Required Lenders, the Obligations of the Borrower pursuant to this Agreement and the performance of every covenant on part of the Borrower to be performed and observed, and (iii) in the case of a Successor to any Guarantor, shall expressly assume, pursuant to a written agreement in form and substance satisfactory to the Required Lenders, the performance of every covenant of this Agreement on part of such Guarantor to be performed and observed;

(b) in the case of any such transaction involving the Borrower or any Guarantor, the Borrower or such Guarantor, or the Successor of any thereof, as the case may be, shall expressly agree to indemnify each Lender and the Administrative Agent against any tax, levy, assessment or governmental charge payable by withholding or deduction thereafter imposed on such Lender and/or the Administrative Agent solely as a consequence of such transaction with respect to payments under the Transaction Documents;

(c) immediately after giving effect to such transaction, including for purposes of this clause (c) the substitution of any Successor to the Borrower for the Borrower or the substitution of any Successor to a Guarantor for such Guarantor and treating any Debt or Lien incurred by the Borrower or any Successor to the Borrower, or by a Guarantor of the Borrower or any Successor to such Guarantor, as a result of such transactions as having been incurred at the time of such transaction (and Incurred for purposes of Section 8.07), no Default or Event of Default shall have occurred and be continuing; and

(d) the Borrower shall have delivered to the Administrative Agent an officer's certificate and an opinion of counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a written agreement is required in connection with such transaction, such written agreement comply with the relevant provisions of this Article VIII and that all conditions precedent provided for in this Agreement relating to such transaction have been complied with.

8.04. Sales of Assets, Etc. Without limitation of Section 2.01(h)(i), the Borrower will not, and will not permit any of its Material Subsidiaries to, sell, lease or otherwise dispose of any of its assets (including the capital stock of any Subsidiary), other than (a) inventory, trade receivables and assets surplus to the needs of the business of the Borrower or any Subsidiary sold in the ordinary course of business, (b) assets not used, usable or held for use in connection with cement operations and related operations, and (c) any "margin stock" within the meaning of Regulation U acquired by the Borrower through a Tender Offer, unless the proceeds of the sale of such assets are retained by the Borrower or such Subsidiary, as the case may be, and, as promptly as practicable after such sale (but in any event within one hundred and eighty (180) days of such sale), the proceeds are applied to (i) expenditures for property, plant and equipment usable in the cement industry or related industries; (ii) the repayment of senior Debt of the Borrower or any of its Subsidiaries, whether secured or unsecured; or (iii) investments in companies engaged in the cement industry or related industries; *provided however*, that the net

proceeds from Qualified Receivables Transactions to the extent exceeding, in the aggregate, the aggregate U.S.$ amount set forth in Schedule 1.01(d) shall be applied to the repayment of senior Debt of the Borrower or any of its Subsidiaries, whether secured or unsecured; and *provided that*, nothing in this Section 8.04 shall prevent any sale, lease or other disposal of assets from any Subsidiary to another Subsidiary.

8.05. Change in Nature of Business. The Borrower shall not make, or permit any of its Material Subsidiaries to make, any material change in the nature of its business as carried on at the date hereof.

8.06. Margin Regulations. The Borrower shall not use any part of the proceeds of the Loans for any purpose which would result in any violation (whether by the Borrower, the Administrative Agent or the Lenders) of Regulation T, U or X of the Federal Reserve Board or to extend credit to others for any such purpose. The Borrower shall not engage in, or maintain as one of its important activities, the business of extending credit for the purpose of purchasing or carrying any margin stock (as defined in such regulations).

8.07. Limitation on Indebtedness. The Borrower shall not, and shall not permit any of its Subsidiaries to, Incur any Debt (including Acquired Debt), *provided that*, the Borrower or any Subsidiary may Incur Debt if on the date of such Incurrence and after giving effect thereto on a pro forma basis (as if such Debt had been Incurred on the first day of the relevant Reference Period): (a) the Consolidated Net Debt / EBITDA Ratio is less than 3.5 to 1.0 and (b) no Event of Default has occurred and is continuing or would result from the Incurrence of such Debt. Notwithstanding the foregoing, the Borrower and its Subsidiaries may Incur Permitted Debt.

(a) Upon each Incurrence of Debt, the Borrower or Subsidiary, as the case may be, may designate (and later re-designate) in its sole discretion pursuant to which category of Permitted Debt any Debt is being Incurred and may subdivide an amount of Debt and designate (and later redesignate) more than one such category pursuant to which such amount of Debt is being Incurred and such Permitted Debt shall not be deemed to have been Incurred or outstanding under any other category of Permitted Debt. For the avoidance of doubt, the inability of the Borrower or its Subsidiary to Incur Debt under one category shall not limit the ability of the Borrower or its Subsidiary to Incur Debt under another category.

(b) Accrual of interest shall not be deemed to be an Incurrence of Debt for purposes of this Section 8.07. Notwithstanding any other provision of this covenant, the maximum amount of Debt that the Borrower and its Subsidiaries may Incur pursuant to this covenant shall not be deemed to be exceeded, with respect to any outstanding Debt, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Debt Incurred to refinance other Debt, if Incurred in a different currency from the Debt being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Debt is denominated that is in effect on the date of such refinancing.

(c) For purposes of determining compliance with any U.S. dollar-denominated restriction on the Incurrence of Debt, the U.S. dollar equivalent principal amount of Debt denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Debt was Incurred.

ARTICLE IX
OBLIGATIONS OF GUARANTORS

9.01. The Guaranty. Each of the Guarantors jointly and severally hereby unconditionally and irrevocably guarantees (as a primary obligor and not merely as surety) payment in full as provided herein of all Obligations payable by the Borrower to each Lender, the Administrative Agent and the Joint Arrangers under this Agreement and the other Transaction Documents and the Fee Letters, as and when such amounts become payable (whether at stated maturity, by acceleration or otherwise).

9.02. Nature of Liability. The obligations of the Guarantors hereunder are guarantees of payment and shall remain in full force and effect until all Obligations of the Borrower have been validly, finally and irrevocably paid in full and all Commitments have been terminated, and shall not be affected in any way by the absence of any action to obtain such amounts from the Borrower or by any variation, extension, waiver, compromise or release of any or all Obligations from time to time therefor. Each Guarantor waives all requirements as to promptness, diligence, presentment, demand for payment, protest and notice of any kind with respect to this Agreement and the other Transaction Documents.

9.03. Unconditional Obligations. Notwithstanding any contrary principles under the laws of any jurisdiction other than the State of New York, the obligations of each of the Guarantors hereunder shall be unconditional, irrevocable and absolute and, without limiting the generality of the foregoing, shall not be impaired, terminated, released, discharged or otherwise affected by the following:

(a) the existence of any claim, set-off or other right which either of the Guarantors may have at any time against the Borrower, the Administrative Agent, any Lenders or any other Person, whether in connection with this transaction or with any unrelated transaction;

(b) any invalidity or unenforceability of this Agreement or any other Transaction Document relating to or against the Borrower or either of the Guarantors for any reason;

(c) any provision of applicable law or regulation purporting to prohibit the payment by the Borrower of any amount payable by the Borrower under this Agreement or any of the other Transaction Documents or the payment, observance, fulfillment or performance of any other Obligations;

(d) any change in the name, purposes, business, capital stock (including the ownership thereof) or constitution of the Borrower;

(e) any amendment, waiver or modification of any Transaction Document in accordance with the terms hereof and thereof; or

(f) any other act or omission to act or delay of any kind by the Borrower, the Administrative Agent, the Lenders or any other Person or any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge of or defense to either of the Guarantors' obligations hereunder.

9.04. Independent Obligation. The obligations of each of the Guarantors hereunder are independent of the Borrower's obligations under the Transaction Documents and of any guaranty or security that may be obtained for the Obligations. The Administrative Agent and the Lenders may neglect or forbear to enforce payment hereunder, under any Transaction Document or under any guaranty or security, without in any way affecting or impairing the liability of each Guarantor hereunder. The

Administrative Agent or the Lenders shall not be obligated to exhaust recourse or take any other action against the Borrower or under any agreement to purchase or security which the Administrative Agent or the Lenders may hold before being entitled to payment from the Guarantors of the obligations hereunder or proceed against or have resort to any balance of any deposit account or credit on the books of the Administrative Agent or the Lenders in favor of the Borrower or each of the Guarantors. Without limiting the generality of the foregoing, the Administrative Agent or the Lenders shall have the right to bring suit directly against either of the Guarantors, either prior or subsequent to or concurrently with any lawsuit against, or without bringing suit against, the Borrower and/or the other Guarantor.

9.05. Waiver of Notices. Each of the Guarantors hereby waives notice of acceptance of this ARTICLE IX and notice of any liability to which it may apply, and waives presentment, demand for payment, protest, notice of dishonor or nonpayment of any such liability, suit or the taking of other action by the Administrative Agent or the Lenders against, and any other notice, to the Guarantors.

9.06. Waiver of Defenses. To the extent permitted by New York law and notwithstanding any contrary principles under the laws of any other jurisdiction, each of the Guarantors hereby waives any and all defenses to which it may be entitled, whether at common law, in equity or by statute which limits the liability of, or exonerates, guarantors or which may conflict with the terms of this ARTICLE IX, including failure of consideration, breach of warranty, statute of frauds, merger or consolidation of the Borrower, statute of limitations, accord and satisfaction and usury. Without limiting the generality of the foregoing, each of the Guarantors consents that, without notice to such Guarantor and without the necessity for any additional endorsement or consent by such Guarantor, and without impairing or affecting in any way the liability of such Guarantor hereunder, the Administrative Agent and the Lenders may at any time and from time to time, upon or without any terms or conditions and in whole or in part, (a) change the manner, place or terms of payment of, and/or change or extend the time or payment of, renew or alter, any of the Obligations, any security therefor, or any liability incurred directly or indirectly in respect thereof, and this ARTICLE IX shall apply to the Obligations as so changed, extended, renewed or altered; (b) exercise or refrain from exercising any right against the Borrower or others (including the Guarantors) or otherwise act or refrain from acting; (c) settle or compromise any of the Obligations, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any such liability (whether due or not) of the Borrower to creditors of the Borrower other than the Administrative Agent and the Lenders and the Guarantors; (d) apply any sums by whomsoever paid or howsoever realized, other than payments of the Guarantors of the Obligations, to any liability or liabilities of the Borrower under the Transaction Documents or any instruments or agreements referred to herein or therein, to the Administrative Agent and the Lenders regardless of which of such liability or liabilities of the Borrower under the Transaction Documents or any instruments or agreements referred to herein or therein remain unpaid; (e) consent to or waive any breach of, or any act, omission or default under the Obligations or any of the instruments or agreements referred to in this Agreement and the other Transaction Documents, or otherwise amend, modify or supplement the Obligations or any of such instruments or agreements, including the Transaction Documents; and/or (f) request or accept other support of the Obligations or take and hold any security for the payment of the Obligations or the obligations of the Guarantors under this ARTICLE IX, or allow the release, impairment, surrender, exchange, substitution, compromise, settlement, rescission or subordination thereof. Furthermore, each of the Guarantors hereby waives to the extent permitted by law any right to which it may be entitled to under Articles 2830, 2836, 2842, 2845, 2846, 2848 and 2849 of the Mexican Federal Civil Code and related Articles contained in the Civil Codes of the States in Mexico. The Guarantors further expressly waive the benefits of order, excusión y division contained in Articles 2814, 2815, 2817, 2818, 2820, 2821, 2822, 2823, 2837, 2838, 2840, 2841 and other related Articles of the Mexican Federal Civil Code and related Articles contained in other Civil Codes of the States of Mexico. The Guarantors hereby represent that the terms of each such provision of each such civil code are known in form and substance to each such Guarantor.

9.07. Bankruptcy and Related Matters.

(a) So long as any of the Obligations remain outstanding, each of the Guarantors shall not, without the prior written consent of the Administrative Agent (acting with the consent of the Required Lenders), commence or join with any other Person in commencing any bankruptcy, liquidation, reorganization, *concurso mercantil* or insolvency proceedings of, or against, the Borrower.

(b) If acceleration of the time for payment of any amount payable by the Borrower under this Agreement or the Notes is stayed upon the insolvency, bankruptcy, reorganization, *concurso mercantil* or any similar event of the Borrower or otherwise, all such amounts otherwise subject to acceleration under the terms of this Agreement shall nonetheless be payable by the Guarantors hereunder forthwith on demand by the Administrative Agent made at the request of the Lenders.

(c) The obligations of each of the Guarantors under this ARTICLE IX shall not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding or action, voluntary or involuntary, involving the bankruptcy, insolvency, *concurso mercantil*, receivership, reorganization, marshalling of assets, assignment for the benefit of creditors, readjustment, liquidation or arrangement of the Borrower or similar proceedings or actions or by any defense which the Borrower may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding or action. Without limiting the generality of the foregoing, the Guarantors' liability shall extend to all amounts and obligations that constitute the Obligations and would be owed by the Borrower but for the fact that they are unenforceable or not allowable due to the existence of any such proceeding or action.

(d) Each of the Guarantors acknowledges and agrees that any interest on any portion of the Obligations which accrues after the commencement of any proceeding or action referred to above in Section 9.07(c) (or, if interest on any portion of the Obligations ceases to accrue by operation of law by reason of the commencement of said proceeding or action, such interest as would have accrued on such portion of the Obligations if said proceedings or actions had not been commenced) shall be included in the Obligations, it being the intention of the Guarantors, the Administrative Agent, and the Lenders that the Obligations which are to be guaranteed by the Guarantors pursuant to this ARTICLE IX shall be determined without regard to any rule of law or order which may relieve the Borrower of any portion of such Obligations. The Guarantors will take no action to prevent any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or similar person from paying the Administrative Agent, or allowing the claim of the Administrative Agent, for the benefit of the Administrative Agent, and the Lenders, in respect of any such interest accruing after the date of which such proceeding is commenced, except to the extent any such interest shall already have been paid by the Guarantors.

(e) Notwithstanding anything to the contrary contained herein, if all or any portion of the Obligations are paid by or on behalf of the Borrower, the obligations of the Guarantors hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered, directly or indirectly, from the Administrative Agent and/or the Lenders as a preference, preferential transfer, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Obligations for all purposes under this ARTICLE IX, to the extent permitted by applicable law.

9.08. No Subrogation. Notwithstanding any payment or payments made by any of the Guarantors hereunder or any set-off or application of funds of any of the Guarantors by the Administrative Agent or any Lender, no Guarantor shall be entitled to be subrogated to any of the rights of the Administrative Agent or any Lender against the Borrower or any other Guarantor or any collateral security or guarantee or right of offset held by the Administrative Agent or any Lender for the payment of the Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from the Borrower or any other Guarantor in respect of payments made by such Guarantor hereunder, until all amounts owing to the Administrative Agent and the Lenders by the Borrower on account of the Obligations shall have been indefeasibly paid in full in cash. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all of the Obligations shall not have been indefeasibly paid in full in cash, such amount shall be held by such Guarantor in trust for the Administrative Agent and the Lenders, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be turned over to the Administrative Agent in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Administrative Agent, if required), to be applied against the Obligations, whether matured or unmatured, in such order as the Administrative Agent may determine.

9.09. Right of Contribution. Subject to Section 9.08, each Guarantor hereby agrees that to the extent that a Guarantor shall have paid more than its proportionate share of any payment made hereunder, such Guarantor shall be entitled to seek and receive contribution from and against any other Guarantor hereunder who has not paid its proportionate share of such payment. The provisions of this Section 9.09 shall in no respect limit the obligations and liabilities of any Guarantor to the Administrative Agent, the Joint Arrangers and the Lenders, and each Guarantor shall remain liable to the Administrative Agent, the Joint Arrangers and the Lenders for the full amount guaranteed by such Guarantor hereunder.

9.10. General Limitation on Guaranty. In any action or proceeding involving any applicable corporate law, or any applicable bankruptcy, insolvency, reorganization, *concurso mercantil* or other law affecting the rights of creditors generally, if the obligations of any Guarantor under this Section 9.10 would otherwise, taking into account the provisions of Section 9.09, be held or determined to be void, invalid or unenforceable, or subordinated to the claims of any other creditors, on account of the amount of its liability under Section 9.01, then, notwithstanding any other provision hereof to the contrary, the amount of such liability shall, without any further action by such Guarantor, any Lender, the Administrative Agent or any other Person, be automatically limited and reduced to the highest amount that is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding.

9.11. Covenants of the Guarantors. Each Guarantor hereby covenants and agrees that, so long as any Obligations under this Agreement and any other Transaction Document remains unpaid or any Lender has any Commitment hereunder, it shall comply with the covenants contained or incorporated by reference in this Agreement to the extent applicable to it as a Subsidiary of the Borrower.

ARTICLE X
EVENTS OF DEFAULT

10.01. Events of Default. The following specified events shall constitute "Events of Default" for the purposes of this Agreement:

(a) Payment Defaults. The Borrower shall (i) fail to pay any principal of any Loan when due in accordance with the terms hereof, or (ii) fail to pay any interest on any Loan, any fee or any other amount payable under this Agreement or any Note (without duplication) within three (3) Business Days after the same becomes due and payable; or

(b) Representation and Warranties. Any representation or warranty made by the Borrower herein or in any other Transaction Document or made by either Guarantor herein or which is contained in any certificate, document or financial or other statement furnished at any time under or in connection with this Agreement or any other Transaction Document, as applicable, shall prove to have been incorrect in any material respect on or as of the date made if such failure shall remain unremedied for thirty (30) days after the earlier of the date on which (i) the chief financial officer of the Borrower or such Guarantor, as the case may be, becomes aware of such incorrectness, or (ii) written notice thereof shall have been given to the Borrower by the Administrative Agent; or

(c) Specific Defaults. The Borrower or a Guarantor, as applicable, shall fail to perform or observe any term, covenant or agreement contained in Section 7.01, 7.02(a), 7.06 (with respect to the Borrower's and each Guarantor's existence only), 7.10 or 7.13 or ARTICLE VIII; or

(d) Other Defaults. The Borrower or a Guarantor, as applicable, shall fail to perform or observe any term, covenant or agreement contained in this Agreement, the Notes, the Fee Letters, any Notice of Borrowings, any certificates, waivers, or any other agreement delivered pursuant to this Agreement (other than as provided in paragraphs (a) and (c) above) and such failure shall continue unremedied for a period of thirty (30) days after the earlier of the date on which (i) a Responsible Officer of the Borrower becomes aware of such failure, or (ii) written notice thereof shall have been given to the Borrower by the Administrative Agent at the request of any Lender; or

(e) Defaults under Other Agreements. The occurrence of a default or event of default under any indenture, agreement or instrument relating to any Material Debt of the Borrower or any of its Subsidiaries, and such default or event of default results in the acceleration of the maturity of any principal amount of such Material Debt prior to the date on which it would otherwise become due and payable; or any principal amount of Material Debt of the Borrower or any of its Subsidiaries shall not be paid upon the scheduled maturity thereof (after giving effect to any applicable grace period); or

(f) Voluntary Bankruptcy. The Borrower or any Material Subsidiary shall commence a voluntary case or other proceeding seeking liquidation, reorganization, *concurso mercantil* or other relief with respect to itself or its debts under any bankruptcy, insolvency, reorganization or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing or the equivalent thereof under Mexican law (including the *Ley de Concursos Mercantiles*); or

(g) Involuntary Bankruptcy. An involuntary case or other proceeding shall be commenced against the Borrower or any Material Subsidiary seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency, *concurso mercantil* or other similar law now or hereafter in effect (including but not limited to the *Ley de Concursos Mercantiles*) or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty (60) consecutive days; or an order for relief shall be entered against the Borrower or any Material Subsidiaries under any bankruptcy, insolvency suspensión de pagos or other similar law as now or hereafter in effect; or

(h) Monetary Judgment. A final judgment or judgments or order or orders not subject to further appeal for the payment of money in an aggregate amount in excess of U.S.$50,000,000 shall be rendered against the Borrower and/or any of its one or more Subsidiaries of the Borrower that are neither discharged nor bonded in full within thirty (30) days thereafter; or

(i) Pari Passu. The Obligations of the Borrower under this Agreement or of any Guarantor under this Agreement shall fail to rank at least *pari passu* with all other senior unsecured Debt of the Borrower or such Guarantor, as the case may be; or

(j) Validity of Agreement. The Borrower shall contest the validity or enforceability of any Transaction Document or shall deny generally the liability of the Borrower under any Transaction Documents or either Guarantor shall contest the validity of or the enforceability of their guarantee hereunder or any obligation of either Guarantor under ARTICLE IX hereof shall not be (or is claimed by either Guarantor not to be) in full force and effect;

(k) Governmental Authority. Any governmental or other consent, license, approval, permit or authorization which is now or may in the future be necessary or appropriate under any applicable Requirement of Law for the execution, delivery, or performance by the Borrower or either Guarantor of any Transaction Document to which it is a party or to make such Transaction Document legal, valid, enforceable and admissible in evidence shall not be obtained or shall be withdrawn, revoked or modified or shall cease to be in full force and effect or shall be modified in any manner that would have an adverse effect on the rights or remedies of the Administrative Agent or the Lenders; or

(l) Expropriation, Etc. Any Governmental Authority shall condemn, nationalize, seize or otherwise expropriate all or any substantial portion of the property of, or capital stock issued or owned by, the Borrower or either Guarantor or take any action that would prevent the Borrower or either Guarantor from performing its obligations under this Agreement, the Notes, the Fee Letters, any Notice of Borrowings, any certificates, waivers, or any other agreement delivered pursuant to this Agreement; or

(m) Moratorium; Availability of Foreign Exchange. A moratorium shall be agreed or declared in respect of any Debt of the Borrower or either Guarantor or any restriction or requirement not in effect on the date hereof shall be imposed, whether by legislative enactment, decree, regulation, order or otherwise, which limits the availability or the transfer of foreign exchange by the Borrower or either Guarantor for the purpose of performing any material obligation under this Agreement, the Notes, the Fee Letters, any Notice of Borrowings, any certificates, waivers, or any other agreement delivered pursuant to this Agreement; or

(n) Change of Ownership or Control. The beneficial ownership (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended) of twenty percent (20%) or more in voting power of the outstanding voting stock of the Borrower or either Guarantor is acquired by any Person; *provided that* the acquisition of beneficial ownership of capital stock of the Borrower or either Guarantor by Lorenzo H. Zambrano or any member of his immediate family shall not constitute an Event of Default.

10.02. Remedies. If any Event of Default has occurred and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders:

terminate the Commitments and/or declare by notice to the Borrower the principal amount of all outstanding Loans to be forthwith due and payable, whereupon such principal amount, together with accrued interest thereon and any fees and all other Obligations accrued hereunder, shall become immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived; *provided*, *however*, that in the case of any Event of Default specified in Section 10.01(f) or (g), without notice or any other act by the Lenders, the Commitments shall be automatically terminated and the Loans (together with accrued interest thereon) and all other Obligations of the Borrower hereunder shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower;

10.03. Notice of Default. The Administrative Agent shall give notice to the Borrower of any event occurring under Section 10.01(a), (b), (c) or (d) promptly upon being requested to do so by any Lender and shall thereupon notify all the Lenders thereof.

10.04. Default Interest. In the event of default by the Borrower in the payment on the due date of any sum due under this Agreement, the Borrower shall pay interest on demand on such sum from the date of such default to the day of actual receipt of such sum by the Administrative Agent (as well after as before judgment) at the rate specified in Section 2.02(d). So long as the default continues, the default interest rate shall be recalculated on the same basis at intervals of such duration as the Administrative Agent may select, *provided that* the amount of unpaid interest at the above rate accruing during the preceding period (or such longer period as may be the shortest period permitted by applicable law for the capitalization of interest) shall be added to the amount in respect of which the Borrower is in default.

10.05. Remedies Independent. Any debt owing to a Lender under the Transaction Documents shall be a separate and independent debt. Except as otherwise stated in the Transaction Documents, (i) any right of a Lender under the Transaction Documents shall be a separate and independent right and (ii) a Lender may separately enforce its rights under the Transaction Documents.

ARTICLE XI
THE ADMINISTRATIVE AGENT

11.01. Appointment and Authorization. Each Lender hereby irrevocably designates and appoints BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer as the Administrative Agent of such Lender under this Agreement, and each Lender hereby irrevocably authorizes the Administrative Agent to take such action on its behalf under the provisions of this

Agreement and each other Transaction Document and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement or any other Transaction Document, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Transaction Document, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Transaction Document or otherwise exist against the Administrative Agent.

11.02. Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement or any other Transaction Document by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects with reasonable care.

11.03. Liability of Administrative Agent. Neither the Administrative Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action taken or omitted to be taken by it or any such Person under or in connection with this Agreement or any other Transaction Document or the transactions contemplated hereby (except for its or such Person's own gross negligence or willful misconduct), or (b) responsible in any manner to any of the Lenders for any recital, statement, representation or warranty made by the Borrower, the Guarantors or any officer thereof contained in this Agreement or in any other Transaction Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Transaction Document, or for the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Transaction Document, or for any failure of the Borrower, the Guarantors or any other party to any Transaction Document to perform its obligations hereunder or thereunder. Except as otherwise expressly stated herein, the Administrative Agent shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Transaction Document, or to inspect the properties, books or records of the Borrower or the Guarantors.

11.04. Reliance by Administrative Agent.

(a) The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or teletype message, statement, order or other document or telephone conversation believed by it in good faith to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Transaction Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of failing to take, taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Transaction Document in accordance with a request or consent of the Required Lenders (or when expressly required hereby, all the Lenders) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders.

(b) For purposes of determining compliance with the conditions specified in Section 4.01, each Lender that has executed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter sent by the Administrative Agent to such Lender for consent, approval, acceptance or satisfaction on or before the Effective Date.

11.05. Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default (except with respect to defaults in the payment of principal, interest and fees required to be paid to the Administrative Agent for the account of the Lenders) unless the Administrative Agent shall have received written notice from a Lender or the Borrower referring to this Agreement and describing such Default or Event of Default and stating that such notice is a "Notice of Default". The Administrative Agent shall promptly notify the Lenders of its receipt of any such notice. The Administrative Agent shall take such action with respect to such Default or Event of Default as may be requested by the Required Lenders; *provided*, *however*, that unless and until the Administrative Agent has received any such request, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable or in the best interest of the Lenders.

11.06. Credit Decision. Each Lender expressly acknowledges that neither the Administrative Agent nor any of its Affiliates, officers, directors, employees, agents or attorneys-in-fact has made any representation or warranty to it, and that no act by the Administrative Agent hereafter taken, including any review of the affairs of the Borrower, the Guarantors, or any of their Affiliates, shall be deemed to constitute any representation or warranty by the Administrative Agent to any Lender. Each Lender acknowledges to the Administrative Agent that 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 appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower, the Guarantors, and their Affiliates and all applicable Lender regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent 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 analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Transaction Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower or the Guarantors. Except for notices, reports and other documents expressly herein required to be furnished to the Lenders by the Administrative Agent, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of the Borrower or the Guarantors which may come into the possession of the Administrative Agent or any of its Affiliates, officers, directors, employees, agents or attorneys-in-fact.

11.07. Indemnification. Whether or not the transactions contemplated hereby are consummated, the Lenders agree to indemnify upon demand the Administrative Agent and its Affiliates, directors, officers, agents and employees (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably according to the respective amounts of their Commitment Percentages in effect on the date the cause for indemnification arose, from and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever which may at any time (including at any time following the payment of the Obligations or the Termination Date) be imposed on, incurred by or asserted against the Administrative Agent (or any of its Affiliates, directors, officers, agents and employees) in any way relating to or arising out of this Agreement or any other Transaction Document, or any documents

contemplated by or referred to herein or the transactions contemplated hereby or any action taken or omitted by the Administrative Agent under or in connection with any of the foregoing; *provided*, *however*, that no Lender shall be liable for the payment of any portion of such claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements to the extent determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of the Administrative Agent or its Affiliates, directors, officers, agents or employees. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its ratable share of any reasonable and documented costs or out-of-pocket expenses (including legal fees) incurred by the Administrative Agent in connection with the preparation, execution, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Transaction Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrower.

11.08. Administrative Agent in Individual Capacity. BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer may make loans to, issue letters of credit for the account of, accept deposits from and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with the Borrower, the Guarantors or any of their Affiliates as though BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer were not the Administrative Agent hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer or its Affiliates may receive information regarding the Borrower, the Guarantors and their Affiliates (including information that may be subject to confidentiality obligations in favor of the Borrower or the Guarantors) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them. With respect to the Obligations, BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer shall have the same rights and powers under this Agreement as any other Lender and may exercise the same as though it were not the Administrative Agent, and the terms "Lender" and "Lenders" include BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer in its individual capacity.

11.09. Successor Administrative Agent. The Administrative Agent may, and at the request of the Required Lenders shall, resign as Administrative Agent upon thirty (30) days' notice to the Lenders and the Borrower. If the Administrative Agent resigns under this Agreement, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which appointment shall be subject to the approval of the Borrower, such approval not to be unreasonably withheld (unless a Default or Event of Default shall have occurred and be continuing, in which case such approval shall not be required). If no successor agent is appointed prior to the effective date of the resignation of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Lenders and the Borrower, a successor agent from among the Lenders. Upon the acceptance of its appointment as successor agent hereunder, such successor agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and the term "Administrative Agent" shall mean such successor agent effective upon its appointment, and the retiring Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act on the part of such retiring Administrative Agent. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this ARTICLE XI and Sections 13.04 and 13.05 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement. If no successor Administrative Agent has accepted the appointment as Administrative Agent by the date which is thirty (30) days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective and either the Borrower or the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent, which shall be a commercial bank organized or licensed under the laws of the United States or of any State thereof and having a combined capital and surplus of at least U.S.$400,000,000.

ARTICLE XII
THE JOINT ARRANGERS

12.01. The Joint Arrangers. The Borrower hereby confirms the designation of each of BBVA Bancomer, S.A. Institucíon de Banca Múltiple, Grupo Financiero BBVA Bancomer, Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Santander Investment Securities Inc., and The Royal Bank of Scotland PLC, as Joint Arrangers for this credit facility. The Joint Arrangers assume no responsibility or obligation hereunder for servicing, enforcement or collection of the Obligations, or any duties as agent for the Lenders. The title "Joint Arranger" or "Arranger" implies no fiduciary responsibility on the part of the Joint Arrangers to the Administrative Agent, or the Lenders and the use of either such title does not impose on the Joint Arrangers any duties or obligations under this Agreement except as may be expressly set forth herein.

12.02. Liability of Joint Arrangers. Neither the Joint Arrangers nor any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by them or any such Person under or in connection with this Agreement or any other Transaction Document (except for such Joint Arranger's own gross negligence or willful misconduct), or (b) responsible in any manner to any Lender for any recital, statement, representation or warranty made by the Borrower or any officer thereof, contained in this Agreement or in any other Transaction Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Joint Arrangers under or in connection with, this Agreement or any other Transaction Document or for the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Transaction Document or for any failure of the Borrower or any other party to any other Transaction Document to perform its obligations hereunder or thereunder. Except as otherwise expressly stated herein, the Joint Arrangers shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Transaction Document, or to inspect the properties, books or records of the Borrower.

12.03. Joint Arrangers in their respective Individual Capacities. Each of BBVA Bancomer, S.A. Institucíon de Banca Múltiple, Grupo Financiero BBVA Bancomer, Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Santander Investment Securities Inc., and The Royal Bank of Scotland PLC, and their respective Affiliates may make loans to, accept deposits from and generally engage in any kind of business with the Borrower or any of its Affiliates as though they were not the Joint Arrangers hereunder.

12.04. Credit Decision. Each Lender expressly acknowledges that neither the Joint Arrangers nor any of their respective Affiliates, officers, directors, employees, agents or attorneys-in-fact have made any representation or warranty to it, and that no act by the Joint Arrangers hereafter taken, including any review of the affairs of the Borrower or the Guarantors, shall be deemed to constitute any representation or warranty by the Joint Arrangers to any Lender. Each Lender acknowledges to the Joint Arrangers that it has, independently and without reliance upon the Joint Arrangers, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower or the Guarantors and their Affiliates and made its own decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Joint Arrangers, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and

the other Transaction Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower or the Guarantors. The Joint Arrangers shall not have any duty or responsibility to provide any Lender with any information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of the Borrower which may come into the possession of the Joint Arrangers or any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates.

ARTICLE XIII
MISCELLANEOUS

13.01. Notices.

(a) Except as otherwise expressly provided herein, all notices, requests, demands or other communications to or upon any party hereunder shall be in writing (including facsimile transmission) and shall be sent by an overnight courier service, transmitted by facsimile or delivered by hand to such party: (i) in the case of the Borrower, the Guarantors, the Joint Arrangers or the Administrative Agent, at its address or facsimile number set forth on Schedule 1.01(c) or at such other address or facsimile number as such party may designate by notice to the other parties hereto, and (ii) in the case of any Lender, at its address or facsimile number set forth in Schedule 1.01(b) or at such other address or facsimile number as such Lender may designate by notice to the Borrower, the Joint Arrangers and the Administrative Agent.

(b) Unless otherwise expressly provided for herein, each such notice, request, demand or other communication shall be effective (i) if sent by overnight courier service or delivered by hand, upon delivery, (ii) if given by facsimile, when transmitted to the facsimile number specified pursuant to paragraph (a) above and confirmation of receipt of a legible copy thereof is received, or (iii) if given by any other means, when delivered at the address specified pursuant to paragraph (a) above; *provided*, *however*, that notices to the Administrative Agent under ARTICLE II, III, IV or XI shall not be effective until received.

13.02. Amendments and Waivers. No amendment or waiver of any provision of this Agreement, and no consent to any departure by the Borrower or any Guarantor from the terms of this Agreement, shall in any event be effective unless the same shall be in writing, consented to by the Borrower or the applicable Guarantors, as the case may be, and acknowledged by the Administrative Agent (which shall be a purely ministerial action), and signed or consented to by the Required Lenders, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; *provided*, *however*, that no amendment, waiver or consent shall:

(a) (i) except as specifically provided herein, increase or decrease the Commitment of any Lender;

(i) except as set forth in Section 3.13, extend the maturity of any of the Obligations, extend the time of payment of interest thereon, or extend the Termination Date; or

(ii) forgive any Obligation, reduce the principal amount of the Obligations, reduce the rate of interest thereon, reduce the amount or change the method of calculation of any Fee hereunder, or change the provisions of Section 3.05(a);

in each case without the consent of the Borrower and each Lender directly affected thereby;

(b) (i) amend, modify or waive any provision of this Section 13.02;

(i) change the percentage specified in the definition of Required Lenders or the number of Lenders which shall be required for the Lenders or any of them to take any action under this Agreement;

(ii) amend, modify or waive any provision of Section 4.01;

(iii) amend, modify or waive any provision of ARTICLE IX or release any Guarantor from its obligations hereunder; or

(iv) amend, modify or waive any provision of Section 13.06;

in each case without the consent of the Borrower and all the Lenders;

(c) amend, modify or waive any provision of ARTICLE XI without the written consent of the Administrative Agent; and

(d) amend, modify or waive any provision of ARTICLE XII without the consent of the Joint Arrangers.

13.03. No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent or any Lender, any right, remedy, power or privilege hereunder or under any other Transaction Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

13.04. Payment of Expenses, Etc. The Borrower agrees to pay on demand

(a) all reasonable and documented out-of-pocket costs and expenses (including reasonable legal fees and disbursements of Mexican and New York counsel to the Administrative Agent), travel, telephone and duplication expenses and other reasonable and documented costs and out of- pocket expenses in connection with the arrangement, documentation, negotiation and closing of the Transactions Documents;

(b) all reasonable and documented out-of-pocket costs and expenses incurred by the Administrative Agent in connection with any amendment to, waiver of, or consent to any Transaction Document or the transactions contemplated hereby, including the reasonable fees and reasonable and documented out-of-pocket expenses of Mexican and New York counsel to the Administrative Agent; and

(c) all reasonable and documented, out-of-pocket costs and expenses incurred by the Administrative Agent or any Lender in connection with the enforcement of and/or preservation of any rights under this Agreement or any other Transaction Document (whether through negotiations, legal proceedings or otherwise), including the reasonable fees and reasonable and documented out-of-pocket expenses of Mexican and New York counsel to the Administrative Agent and such Lender.

13.05. Indemnification. The Borrower agrees to indemnify and hold harmless the Joint Arrangers, the Administrative Agent and each Lender and each of their Affiliates and their officers,

directors, employees, agents and advisors (each, an "Indemnified Party") from and against any and all claims, damages, losses, liabilities and expenses (including reasonable fees and expenses of counsel and the allocated cost of in-house counsel), but excluding taxes that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or by reason of (including in connection with any investigation, litigation or proceeding or preparation of a defense in connection therewith) (a) the Transaction Documents, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Loans or (b) or any Environmental Action relating in any way to the Borrower or any of its Subsidiaries, except to the extent such claim, damage, loss, liability or expense is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 13.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by the Borrower, its directors, shareholders or creditors or an Indemnified Party or any other Person or any Indemnified Party is otherwise a party thereto and whether or not the transactions contemplated hereby are consummated. The Borrower and each Guarantor also agrees not to assert any claim against the Joint Arrangers, the Administrative Agent, any Lender, any of their Affiliates, or any of their respective directors, officers, employees, attorneys and agents, on any theory of liability, for special, indirect, consequential or punitive damages arising out of or otherwise relating to the Transaction Documents, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Transaction Documents. Neither the Joint Arranger, the Administrative Agent, nor any Lender shall be deemed to have any fiduciary relationship with the Borrower or any Guarantor.

13.06. Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon the Borrower, the Guarantors, their successors and assigns and shall inure to the benefit of the Joint Arrangers, the Administrative Agent and the Lenders and their respective successors and assigns, except that the Borrower and the Guarantors may not assign or otherwise transfer any of their rights or obligations under this Agreement without the prior written consent of all Lenders except pursuant to the terms of this Agreement.

(b) Any Lender may at any time, and any Lender, if demanded by the Borrower pursuant to Section 2.01(d) or Section 3.09 upon at least five (5) Business Days' notice to such Lender and the Administrative Agent, shall, assign to one or more commercial banks either (i) registered as a Foreign Financial Institution and a resident (or having its principal office as a resident, if lending through a branch or agency) for tax purposes in a jurisdiction that is a party to an income tax treaty to avoid double taxation with Mexico on the date of such assignment, qualified to receive the benefits of said treaty or (ii) organized and existing under the laws of Mexico on the date of such assignment (each an " Assignee") all, or a proportionate part of all, of its Commitment or Loan and its rights and obligations under this Agreement and the Notes, and such Assignee shall assume such rights and obligations, pursuant to an Assignment and Assumption Agreement executed by such Assignee and such transferor Lender, with (and subject to) the subscribed consent of the Borrower and the Administrative Agent (which consents shall not be unreasonably withheld or delayed, and if a Default or Event of Default has occurred and is continuing, the consent of the Borrower shall not be required); *provided*, *however*, that if an Assignee is an Existing Lender or an Affiliate of such transferor Lender, which Affiliate is registered as a Foreign Financial Institution and meets the tax residence and qualification requirements of clause (ii) above and, at the time of such assignment, the additional amounts payable with respect to Taxes to such Assignee will not exceed such amounts payable to the transferor Lender, no such consent shall be required; and *provided further that*, in the case of an assignment of only part of such rights and obligations, the Assignee shall acquire a Commitment

or Loan of not less than U.S.$3,000,000 and integral multiples of U.S.$1,000,000 in excess thereof. Upon execution and delivery of an Assignment and Assumption Agreement and payment by the Assignee to the transferor Lender of an amount equal to the purchase price agreed between such transferor Lender and such Assignee, such Assignee shall be a Lender party to this Agreement and shall have all the rights and obligations of a Lender with a Commitment or Loan as set forth in such instrument of assumption (in addition to any Commitment or Loan previously held by it), and the transferor Lender shall be released from its obligations hereunder to a corresponding extent (except to the extent the same arose prior to the assignment), and no further consent or action by any party shall be required. Upon the consummation of any assignment pursuant to this paragraph (b), the transferor Lender, the Administrative Agent and the Borrower shall make appropriate arrangements so that a new Note is issued to the Assignee at the expense of the Assignee. In connection with any such assignment (other than a transfer by a Lender to one of its Affiliates), the transferor Lender (or in the case of Section 3.10, the Borrower), without prejudice to any claims the Borrower may have against any Defaulting Lender, shall pay to the Administrative Agent an administrative fee for processing such assignment in the amount of U.S.$3,500.

(c) Nothing herein shall prohibit any Lender from pledging or assigning any Note to any Federal Reserve Bank of the United States in accordance with applicable law and without compliance with the foregoing provisions of this Section 13.06; *provided*, *however*, that such pledge or assignment shall not release such Lender from its obligations hereunder.

(d) Any Lender may, without any consent of the Borrower, the Administrative Agent or any other third party at any time grant to one or more banks or other institutions (i) registered as a Foreign Financial Institution and (ii) resident (or having its principal office as a resident, if lending through a branch or agency) for tax purposes in a jurisdiction that is a party to an income tax treaty to avoid double taxation with Mexico on the date of such assignment and qualified to receive the benefits of said treaty and having (at the time such Lender or financial institution becomes a Participant) a withholding tax rate under such treaty applicable to payments hereunder no higher than that applicable to payments to such Lender (each a "Participant") participating interests in its Commitment or any or all of its Loans. In the event of any such grant by a Lender of a participating interest to a Participant, whether or not upon notice to the Borrower and the Administrative Agent, such Lender shall remain responsible for the performance of its obligations hereunder, and the Borrower and the Administrative Agent shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement pursuant to which any Lender may grant such a participating interest shall provide that such Lender shall retain the sole right and responsibility to enforce the obligations of the Borrower hereunder, including the right to approve any amendment, modification or waiver of any provision of this Agreement; *provided*, *however*, that such participation agreement may provide that such Lender will not agree to any modification, amendment or waiver of this Agreement extending the maturity of any Obligation in respect of which the participation was granted, or reducing the rate or extending the time for payment of interest thereon or reducing the principal thereof, or reducing the amount or basis of calculation of any fees to accrue in respect of the participation, without the consent of the Participant. The Borrower agrees that each Participant shall, to the extent provided in its participation agreement, be entitled to the benefits of Sections 3.04, 3.06 and 3.10 with respect to its participating interest as if it were a Lender named herein; *provided*, *however*, that the Borrower shall not be required to pay any greater amounts pursuant to such Sections than it would have been required to pay but for the sale to such Participant of such Participant's participation interest. An assignment or other transfer which is not permitted by paragraph (b) or (c) above shall be given effect for purposes of this Agreement only to the extent of a participating interest granted in accordance with this paragraph (d).

(e) Any Lender may, in connection with any assignment or participation or proposed assignment or participation pursuant to this Section 13.06, disclose to the Assignee or Participant or proposed Assignee or Participant, any information relating to the Borrower furnished to such Lender by or on behalf of the Borrower; *provided that*, prior to any such disclosure, the Assignee or Participant or proposed Assignee or Participant shall agree to preserve the confidentiality of any Confidential Information relating to the Borrower received by it from such Lender.

13.07. Right of Set-off. In addition to any rights and remedies of the Lenders provided by law, each such Lender shall have the right, without prior notice to the Borrower or the Guarantors, any such notice being expressly waived by the Borrower and the Guarantors to the extent permitted by applicable law, upon any amount becoming due and payable by the Borrower or the Guarantors hereunder (whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender, or any branch or agency thereof to or for the credit or the account of the Borrower or the Guarantors. Each Lender agrees promptly to notify the Borrower, or such Guarantor, as the case may be, and the Administrative Agent after any such set-off and application made by such Lender, *provided that* the failure to give such notice shall not affect the validity of such set-off and application.

13.08. Confidentiality. Neither the Administrative Agent nor any Lender shall disclose any Confidential Information to any other Person without the prior written consent of the Borrower, other than (a) to the Administrative Agent's, or such Lender's Affiliates and their officers, directors, employees, agents and advisors and, as contemplated by Section 13.06(e), to actual or prospective Assignees and Participants, and then only on a confidential basis, (b) as required by any law, rule or regulation (including as may be required in connection with an audit by the Administrative Agent's, or such Lender's independent auditors, and as may be required by any self-regulating organizations) or as may be required by or necessary in connection with any judicial process and (c) as requested by any state, federal or foreign authority or examiner regulating banks or banking.

13.09. Use of English Language. All certificates, reports, notices and other documents and communications given or delivered pursuant to this Agreement shall be in the English language (other than the documents required to be provided pursuant to Section 4.01(e)(iii), Section 7.01 and Section 7.02 which shall be in the English language or in the Spanish language accompanied by an English translation or summary). Except in the case of the laws of, or official communications of, Mexico, the English language version of any such document shall control the meaning of the matters set forth therein.

13.10. **GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK.**

13.11. Submission to Jurisdiction.

(a) Each of the parties hereto hereby irrevocably and unconditionally submits to the non-exclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court located in the Borough of Manhattan in New York City and any appellate court thereof for purposes of any suit, legal action or proceeding arising out of or relating to this Agreement, any other Transaction Document or the transactions contemplated

hereby, and each of the parties hereto hereby irrevocably agrees that all claims in respect of such suit, action or proceeding may be heard and determined in such federal or New York State court and, with respect to the Borrower and the Guarantors, as well as in the competent court of their own corporate domicile, expressly waiving the right to the jurisdiction of any other courts pursuant to applicable law.

(b) Each of the parties hereto hereby irrevocably waives, to the fullest extent it may effectively do so, any objection that it may now or hereafter have to the laying of venue of any such suit, action or proceeding in any such federal or New York State court and irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of any such suit, action or proceeding.

(c) Each of the parties hereto irrevocably waives the right to object, with respect to such claim, suit, action or proceeding brought in any such court, that such court does not have jurisdiction over it.

(d) Each of the parties hereto agrees, to the fullest extent it may effectively do so under applicable law, that a final judgment in any suit, action or proceeding of the nature referred to in paragraph (a) above brought in any such court shall be conclusive and binding upon such party and may be enforced in other jurisdictions by suit on the judgment or in any manner provided by law.

(e) **EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR THE ACTIONS OF ANY ARRANGER, THE ADMINISTRATIVE AGENT OR ANY LENDER IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT THEREOF**.

13.12. Appointment of Agent for Service of Process .

(a) The Borrower and each Guarantor hereby irrevocably appoints CT Corporation System, with an office on the date hereof at 111 Eighth Avenue, 13th Floor, New York, New York 10011, as its agent (the "Process Agent") to receive on behalf of itself and its property, service of copies of the summons and complaint and any other process which may be served in any such action or proceeding brought in any New York State or federal court sitting in New York City. The Borrower and each Guarantor hereby appoints as its conventional domicile exclusively to receive any of the notices and service of process, the domicile of the Process Agent mentioned above or any other domicile notified in writing by the Process Agent to the Borrower, the Administrative Agent or any Lender. Such service may be made by delivering a copy of such process to the Borrower or any Guarantor, as the case may be, in care of the Process Agent at its address specified above, and the Borrower and each Guarantor, as the case may be, hereby authorizes and directs the Process Agent to accept such service on its behalf. The appointment of the Process Agent shall be irrevocable until the appointment of a successor Process Agent. The Borrower and each Guarantor, further agrees to promptly appoint a successor Process Agent in New York City prior to the termination for any reason of the appointment of the initial Process Agent.

(b) Nothing in Section 13.11 or in this Section 13.12 shall affect the right of any party hereto to serve process in any manner permitted by law or limit any right that any party hereto may have to enforce in any lawful manner a judgment obtained in one jurisdiction in any other jurisdiction.

13.13. Waiver of Sovereign Immunity. To the extent that the Borrower or a Guarantor has or hereafter may acquire 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, or otherwise) with respect to itself or its property, the Borrower or the Guarantor, as the case may be, hereby irrevocably waives such immunity in respect of its obligations hereunder to the extent permitted by applicable law. Without limiting the generality of the foregoing, the Borrower and each Guarantor agrees that the waivers set forth in this Section 13.13 shall have force and effect to the fullest extent permitted under the Foreign Sovereign Immunities Act of 1976 of the United States and are intended to be irrevocable for purposes of such Act.

13.14. Judgment Currency.

(a) All payments made under this Agreement and the other Transaction Documents shall be made in Dollars unless specified otherwise herein. If for the purposes of obtaining judgment in any court it is necessary to convert a sum due from the Borrower in one currency (" Currency X") into another currency ("Currency Y"), the parties hereto agree to the fullest extent that they may legally and effectively do so that the rate of exchange used shall be that at which in accordance with normal banking procedures (based on quotations from four major dealers in the relevant market) the Administrative Agent or each Lender, as the case may be, could purchase Currency X with Currency Y at or about 11:00 a.m. (New York City time) on the Business Day preceding that on which final judgment is given.

(b) The Obligations in respect of any sum due to any Lender or the Administrative Agent hereunder or under any other Transaction Document shall, to the extent permitted by applicable law notwithstanding any judgment expressed in a currency other than the applicable Currency X, be discharged only to the extent that on the Business Day following receipt by such Lender or the Administrative Agent of any sum adjudged to be so due in Currency Y such Lender or the Administrative Agent may in accordance with normal banking procedures purchase Currency X with Currency Y. If the amount of Currency X so purchased is less than the sum originally due to such Lender or the Administrative Agent, the Borrower and each of the Guarantors agree, to the fullest extent it may legally do so, as a separate obligation and notwithstanding any such judgment, to indemnify such Lender or the Administrative Agent against such resulting loss.

13.15. Counterparts. This Agreement may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement.

13.16. USA PATRIOT Act. The Lenders, to the extent that they are subject to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), hereby notify the Borrower that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Lenders to identify the Borrower in accordance with the Act.

13.17. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction, and the remaining portion of such provision and all other remaining provisions hereof will be construed to render them enforceable to the fullest extent permitted by law.

13.18. Survival of Agreements and Representations .

(a) All representations and warranties made herein or in any other Transaction Document shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

(b) The covenants and agreements contained in Sections 3.04, 3.05, 3.06, 3.07, 3.08, 13.04, 13.05, 13.08, 13.09, 13.11, 13.12 and 13.14, and the obligations of the Lenders under Section 11.07, shall survive the termination of the Commitments and the payment of all Obligations and, in the case of any Lender that may assign any interest in its Commitment or obligations hereunder, with respect to matters occurring before such assignment, shall survive the making of such assignment to the extent any claim arising thereunder relates to any period prior to such assignment, notwithstanding that such assigning Lender may cease to be a "Lender" hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first written above.

CEMEX, S.A.B. de C.V.
as Borrower

By: /s/ [illegible]
Name
Title:

CEMEX MÉXICO, S.A. de C.V.
as Guarantor

By: /s/ [illegible]
Name:
Title:

CEMEX CONCRETOS, S.A. de C.V.
as Guarantor

By: /s/ [illegible]
Name:
Title:

BBVA BANCOMER, S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BBVA BANCOMER
as Administrative Agent

By: /s/ [illegible]
Name: /s/ [illegible]
Title: Legal Representative

By: /s/ Ricardo Cano Swain
Name: Ricardo Cano Swain
Title: Legal Representative

BBVA BANCOMER, S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BBVA BANCOMER
as a Lender

By /s/ Alejandro Cardenas
Name: Alejandro Cardenas
Title:

By /s/ [illegible]
Name: [illegible]
Title:

BANCO NACIONAL DE COMERCIO EXTERIOR, S.N.C
as a Lender

By /s/ Jorge Tovar Castro
Name: Jorge Tovar Castro
Title: Attorney in fact

By /s/ Leone Vásquez Gómez
Name: Leone Vásquez Gómez
Title: Attorney in fact

BANCO NACIONAL DE MÉXICO, S.A.
INTEGRANTE DEL GRUPO FINANCIERO
BANAMEX
as a Lender

By /s/ Julio Alvarez González
Name: Julio Alvarez González
Title: Director de Banca
Corporativa y de Inversion
213-53

By /s/ Leopoldo Amaya González
Name: Leopoldo Amaya González
Title: Director de Finanzes Corporativas
59-10

BANCO SANTANDER (MÉXICO), S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO SANTANDER
as a Lender

By /s/ Wade A. Kit
Name: Wade A. Kit
Title: Director Loan Syndications

By /s/ Octavano Còuttolene Mestre
Name: Octavano Còuttolene Mestre
Title: Managing Director

CITIBANK, N.A., NASSAU BAHAMAS BRANCH
as a Lender

By /s/ Leslie Munroe
Name: Leslie Munroe
Title: Attorney-in-Fact
Citibank N.A.
Nassau, Bahamas Branch

By _____
Name:
Title:

CITIBANK (BANAMEX USA)
as a Lender

By /s/ Jeff Healy
Name: Jeff Healy
Title: Senior Vice President

By /s/ Jorge Figueroa
Name: Jorge Figueroa
Title: Executive Vice President

HSBC MÉXICO, S.A. INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO HSBC
as a Lender

By /s/ Juancarlos Chavez Sevilla
Name: Juancarlos Chavez Sevilla
Title: Attorney in Fact

By _____
Name:
Title:

BBVA BANCOMER, S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BBVA BANCOMER
as Joint Arranger

By /s/ [illegible]
Name:
Title:

By /s/ [illegible]
Name:
Title:

CITIGROUP GLOBAL MARKETS INC.
as Joint Arranger

By /s/ Adrian Guzzoni
Name: Adrian Guzzoni
Title: Authorized Signatory

By
Name:
Title:

HSBC SECURITIES (USA) INC.
as Joint Arranger

By /s/ Katia Bouazza
Name: Katia Bouazza
Title: Managing Director

By _____
Name:
Title:

SANTANDER INVESTMENT SECURITIES INC.
as Joint Arranger

By /s/ Marcelo Castro
Name: Marcelo Castro
Title: Managing Director

By /s/ Andres Barbosa
Name: Andres Barbosa
Title: Vice President

THE ROYAL BANK OF SCOTLAND PLC
as Joint Arranger

By /s/ [illegible]
Name: /s/ [illegible]
Title: MD

By /s/ Juan Gortazan
Name: Juan Gortazan
Title:

Schedule 1.01(a)
COMMITMENTS

Name of Lender	Tranche A Commitment (Dollars $)	Tranche B Commitment (Pesos MXN)
Banco Nacional de Comercio Exterior, S.N.C.	80,000,000	
Banco Nacional de México, S.A. Integrante del Grupo Financiero Banamex		979,076,250
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	55,000,000	742,747,500
BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	230,000,000	2,266,359,200
Citibank, N.A., Nassau Bahamas Branch	47,500,000	
Citibank (Banamex USA)	25,000,000	
HSBC México, S.A. Institución de Banca Múltiple Grupo Financiero HSBC		785,100,000
Total	**$ 437,500,000**	**MXN4,773,282,950**

Schedule 1.01(b)
LENDING OFFICES

Banco Nacional de Comercio Exterior, S.N.C.
Address: Av. Gómez Morín # 350
Condominio Torre AON, 4th Floor, Local 42
Col. Valle del Campestre
San Pedro Garza García, N.L.
México 66265
Attention: Horacio Vaquera / Adriana Pérez
Phone: (5281) 8369-2122 / (5281) 8369-2139
Fax: (5281) 8369-2155
E-mail: hvaquera@bancomext.gob.mx / aperez@bancomext.gob.mx)

Banco Nacional de México, S.A.
Address: Ave. Batallón de San Patricio 109 Sur
Piso 5, Col Valle Oriente
CP 66269 San Pedro Garza García, NL, México
Attention: Ana Cecilia Ruiz Martinez
Phone: +52 81 1226 8509
Fax: +52 81 1226 8538
E-mail: anaruizma@banamex.com

Banco Santander (México), S.A., Institucion de Banca Multiple, Grupo Financiero Santander
Address: Paseo de la Reforma #500 Piso 1 Mod 110
Col. Santa Fe
Mexico City, Mexico
Attention: Aldo Miranda Ortiz
Phone: (5255) 5261 5164
Fax: (5255) 5269 1834
E-mail: almiranda@santander.com.mx

Attention: Pablo Casarrubias López
Phone: (5255) 5269 1832
Fax: (5255) 5269 1834
E-mail: pcasarrubias@santander.com.mx

BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer
Address: Av. Vasconcelos 101 Ote. 1er Piso
Col. Residencial San Agustín
San Pedro Garza García, NL
México 66260
Attention: Lorenzo Valdes Elizondo
Phone: +(52) 81 8368 6965
Fax: +(52) 81 8368 6980
E-mail: l.valdes@bbva.bancomer.com

Citibank, N.A., Nassau Bahamas Branch
Address: Av. Batallón de San Patricio No. 109
5to piso, Col. Valle Oriente,
Garza García, NL, México
Attention: Tony Zertuche
Phone: 52 (81) 1226 8526
Fax: 52 (81) 1226 8560
E-mail: mzertucheiz@banamex.com

Attention: Jesús Cantú
Phone: 52 (81) 1226 8505
Fax: 52 (81) 1226 8560
E-mail: jcantu@banamex.com

Citibank (Banamex USA)
Address: 2029 Century Park East
42nd FLR Loan Admin. & Ops Unit
Los Angeles, 90067
Attention: Rosa Verdin, Vice Pres.
Phone: (310) 203-3442
Fax: (310) 203-3719
E-mail: Rosa.verdin@citigroup.com

Attention: Rory Lee
Phone: (310) 203-3450
Fax: (310) 203-3722
E-mail: Rory.lee@citi.com

HSBC Mexico, S.A., Institucion de Banca Multiple, Grupo Financiero HSBC
Address: Blvd. Díaz Ordaz #123 Pte. Torre Sur,
Piso 5, Col Santa María
C.P. 64650, Monterrey, N.L.Mexico
Attention: Cordelia Gonzalez
Phone: 52 81 8319 2229
Fax: 52 81 8319 2349
E-mail: Cordelia.GONZALEZ@hsbc.com.mx

Schedule 1.01(b)

Schedule 1.01(c)
NOTICE DETAILS

BORROWER:

Address: Ave. Ricardo Margáin Zozaya # 325
Col. Valle del Campestre
Garza García, N.L. 66265 México
Attention: Agustín Blanco – Corporate Financing
Phone: (5281) 8888 4586
Fax: (5281) 8888 4465
E-mail: agustin.blanco@cemex.com

Attention: Francisco Contreras – Back office
Phone: (5281) 8888 4093
Fax: (5281) 8888 4019
E-mail: franciscojavier.contreras@cemex.com

GUARANTORS:

Address: Ave. Ricardo Margáin Zozaya # 325
Col. Valle del Campestre
Garza García, N.L. 66265 México
Attention: Agustín Blanco – Corporate Financing
Phone: (5281) 8888 4586
Fax: (5281) 8888 4465
E-mail: agustin.blanco@cemex.com

Attention: Francisco Contreras – Back office
Phone: (5281) 8888 4093
Fax: (5281) 8888 4019
E-mail: franciscojavier.contreras@cemex.com

JOINT ARRANGERS:

BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer
Attention: Montes Urales 620 piso 2
Col. Lomas de Chapultepec
México D.F., México 11000
Attention: Gonzalo Mañón
Phone: (5255) 5201 2070
Fax: (5255) 5201 2054
E-mail: g.manon@bbva.bancomer.com

Citigroup Global Markets Inc.
Address: 390 Greenwich St, 1st floor
New York, NY 10012
U.S.A.
Attention: Adrian Guzzoni
Phone (212) 723 6810
Fax: (646) 862 8167
E-mail: adrian.guzzoni@citi.com

HSBC Securities (USA) Inc.
Address: Blvd. Díaz Ordaz #123 Pte. Torre Sur, Piso 5, Col. Santa María, C.P. 64650, Monterrey, Mexico
Attention: Cordelia Gonzalez
Phone: (5281) 8319 2229
Fax: (5281) 8319 2349
E-mail: Cordelia.Gonzalez@hsbc.com.mx

Santander Investment Securities Inc.
Address: 45 East 53rd Street
New York
NY 10022
Attention: Andres Barbosa – Structured Finance
Phone: +1 (212) 407-0993
Fax: +1 (212) 407-4580
E-mail: abarbosa@santander.us

The Royal Bank of Scotland plc
Address: Edificio Serrano 49, C/ José Ortega y Gasset, 7, 28006 Madrid
Attention: Antonio Casteleiro
Phone: +34 91 438 5135
Fax: +34 91 438 5307
E-mail: Antonio.Casteleiro@rbs.com

ADMINISTRATIVE AGENT:

BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer
Address: C/o Montes Urales No. 620; Col. Lomas de Chapultepec 1000 México, Distrito Federal
Attention: Concepción Zúñigo / Josué De León
Phone: (5255) 5201-2063 / (5255) 5201-2630
Fax: (5255) 5201-2054
Email: c.zuniga@bbva.bancomer.com / j.jair@bbva.bancomer.com

Schedule 1.01(d)
EXISTING QUALIFIED RECEIVABLES TRANSACTIONS

	Description	Counterparty	Origin	Currency	Amount	Amount in USD	Maturity
CEMEX France S.A.S.	Amendment and Restated Receivables Assignment Agreement (as amended)	ING Bank (France) S.A.	May 31, 2006	EURO	160,000,000	224,720,000	May 31, 2009
Cemex Inc.	Amended and Restated Receivables Purchase Agreement (as amended)	JP Morgan Chase Bank, N.A./ Lloyds TSB Bank plc	March 20, 2008	USD	500,000,000	500,000,000	March 20, 2009
Cemex Mexico, S.A. de C.V.	Agreement for the Sale and Transfer of Ownership of Designated Receivables	WLB Funding, S.A. de C.V., SOFOM, E.N.R.	January 9, 2008	MXN	2,298,000,000	174,426,548	January 9, 2009
Cemex España, S.A.	Amended and Restated Receivables Purchase Agreement (as amended)	WestLB AG	May 9, 2006	EURO	300,000,000	421,350,000	May 9, 2011
TOTAL						**1,320,496,548**	

Exchange rates as of January 1, 2009	
US$/Euro	1.4045
US$/MXN	0.0759

Schedule 1.01(e)
EXISTING BILATERAL FACILITIES

INSTITUTION	CURRENCY	STATED MATURITY DATE	OUTSTANDING PRINCIPAL AMOUNT MXN	OUTSTANDING PRINCIPAL AMOUNT USD
HSBC México, S.A. Institución de Banca Múltiple Grupo Financiero HSBC	MXN	January 30, 2009	785,100,000.00	
BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	MXN	January 30, 2009	1,285,555,200.00	
BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	MXN	January 30, 2009	980,804,000.00	
BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	USD	January 30, 2009		75,000,000.00
BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	USD	January 30, 2009		155,000,000.00
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	MXN	January 30, 2009	742,747,500.00	
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	USD	January 30, 2009		55,000,000.00
CITIBANK, N.A. , NASSAU BAHAMAS BRANCH	USD	January 30, 2009		47,500,000.00
Banco Nacional de México, S.A. Integrante del Grupo Financiero Banamex	MXN	January 30, 2009	979,076,250.00	
CITIBANK (BANAMEX USA)	USD	January 30, 2009		25,000,000.00
Banco Nacional de Comercio Exterior, S.N.C.	USD	February 13, 2009		20,000,000.00
Banco Nacional de Comercio Exterior, S.N.C.	USD	March 24, 2009		60,000,000.00
TOTAL			**4,773,282,950.00**	**437,500,000.00**

Schedule 2.01(h)(i)
SPECIFIED FINANCINGS

Debt Facilities, Notes, Bonds, Debt Instruments, Derivatives Agreements and Qualified Receivables Transactions	Currency	Stated Maturity Date	Outstanding Principal Amount	Outstanding in USD
Debt Facilities, Notes, Bonds, Debt Instruments				
Cemex España Syndicated Agreement (RMC) dated September 24, 2004	USD	March 24, 2009	262,500,000	262,500,000
Cemex España Syndicated Agreement (RMC) dated September 24, 2004	USD	September 24, 2009	262,500,000	262,500,000
Cemex España Syndicated JPY 19308 dated June 13, 2003	JPY	March 30, 2009	19,308,000,000	212,783,778
Cemex SAB de CV Certificado Bursátil issued on January 8, 2008	MXN	February 5, 2009	454,784,000	34,519,758
Cemex SAB de CV Certificado Bursátil issued on January 15, 2008	MXN	February 12, 2009	429,600,000	32,608,201
Cemex SAB de CV Certificado Bursátil issued on January 22, 2008	MXN	February 19, 2009	484,640,000	36,785,937
Cemex SAB de CV Certificado Bursátil issued on April 15, 2005	MXN	April 10, 2009	1,895,930,900	143,908,043
Cemex SAB de CV 144-A Bond 09 issued on October 1, 1999	USD	October 1, 2009	61,516,000	61,516,000
Cemex SAB de CV US$700MM RCF (Dresdner not extended portion) dated June 23, 2004	USD	July 25, 2009	20,000,000	20,000,000
Cemex SAB de CV RCF Commerce Bank September 08, 2008	USD	March 6, 2009	25,000,000	25,000,000
Cemex SAB de CV RCF Commerce Bank December 22, 2008	USD	March 6, 2009	4,000,000	4,000,000
Cemex SAB de CV RCF Standard Chartered December 18, 2008	USD	March 26, 2009	30,000,000	30,000,000
Cemex SAB de CV RCF Bancomext October 14, 2008	USD	July 14, 2009	41,666,667	41,666,667
Cemex SAB de CV RCF Bancomext October 14, 2008	USD	October 14, 2009	41,666,667	41,666,667
Cemex España Póliza BNP dated January 25, 2008	USD	January 26, 2009	53,000,000	53,000,000
Cemex España Póliza Banca di Roma dated July 31, 2006	EUR	January 28, 2009	8,948,275	12,567,852
Cemex España Póliza JP Morgan dated January 14, 2004	EUR	February 13, 2009	2,062,414	2,896,660
Cemex España Póliza Bankinter dated December 21, 2004	EUR	March 6, 2009	381	535
Cemex España Póliza Bankinter dated December 21, 2004	USD	March 6, 2009	7,560,000	7,560,000
Cemex España Póliza Caja Asturias dated April 1, 2008	EUR	March 31, 2009	19,946,349	28,014,647
Cemex España Póliza Sabadell dated June 24, 2008	EUR	June 24, 2009	2,701,495	3,794,250
Cemex España Póliza Sabadell dated June 24, 2008	USD	June 24, 2009	38,980,442	38,980,442
Cemex España Póliza Fortis dated August 28, 2006	EUR	August 28, 2009	11,634,311	16,340,390
Cemex España Póliza Fortis dated August 28, 2006	JPY	August 28, 2009	1,854,931	20,442
Cemex España Póliza Fortis dated August 28, 2006	USD	August 28, 2009	7,735,803	7,735,803
Cemex España Póliza Fortis dated August 28, 2006	EUR	August 28, 2009	62,499	87,780
Cemex España Póliza Fortis dated August 28, 2006	USD	August 28, 2009	7,466,295	7,466,295
Environmental Bond dated December 4, 1997	USD	July 16, 2009	21,500,000	21,500,000
Environmental Bond dated February 15, 1983	USD	August 5, 2009	17,800,000	17,800,000
Cemex Materials LLC—ANZ dated February 21, 2003	USD	April 1, 2009	150,000,000	150,000,000
Cemex Materials LLC—BNP dated February 21, 2003	USD	April 1, 2009	37,500,000	37,500,000
Cemex Materials LLC—JP Morgan dated October 1, 2007	USD	March 23, 2009	50,000,000	50,000,000
Cemex Materials LLC—JP Morgan dated October 1, 2008	USD	April 1, 2009	40,000,000	40,000,000
Cemex Investments Ltd Bilateral RBS dated October 2008	GBP	January 31, 2009	31,716,666	46,553,723
Cemex Investments Ltd Bilateral RBS dated October 2008	USD	January 31, 2009	10,766,798	10,766,798
Cemex France Service Loan BNP dated January 15, 2009	EUR	February 13, 2009	20,000,000	28,090,000
Cemex France Service France Loan SocGen dated December 29, 2008	EUR	January 29, 2009	16,000,000	22,472,000
Cemex Puerto Rico Loan BBVA dated August 31, 2005	USD	August 31, 2009	30,000,000	30,000,000
Cemex Philippines loan with Banco de Oro dated January 19, 2009	USD	April 20, 2009	8,000,000	8,000,000
Cemex Colombia loan with Banco Credito dated October 29, 2008	COP	January 27, 2009	11,500,000,000	5,114,339

Debt Facilities, Notes, Bonds, Debt Instruments, Derivatives Agreements and Qualified Receivables Transactions	Currency	Stated Maturity Date	Outstanding Principal Amount	Outstanding in USD
Cemex Colombia loan with Banco Credito dated October 30, 2008	COP	January 29, 2009	11,500,000,000	5,114,339
Cemex Colombia loan with Banco Occidente dated October 31, 2008	COP	January 29, 2009	15,000,000,000	6,670,877
Cemex Colombia loan with Banco Bogota dated November 5, 2008	COP	February 2, 2009	20,000,000,000	8,894,502
Cemex Colombia loan with Banco Ganadero dated November 4, 2008	COP	February 5, 2009	25,000,000,000	11,118,128
Cemex Colombia loan with Banco Occidente dated January 21, 2009	COP	April 21, 2009	15,000,000,000	6,670,877
Cemex Dominicana loan with BHQ dated November 6, 2008	DOP	February 6, 2009	100,000,000	2,828,854
Cemex Dominicana loan with BHQ dated November 7, 2008	DOP	February 9, 2009	100,000,000	2,828,854
Cemex Dominicana loan with BHQ dated November 12, 2008	DOP	February 12, 2009	50,000,000	1,414,427
Cemex Dominicana loan with BM Leon dated November 12, 2008	DOP	May 12, 2009	45,000,000	1,272,984
Cemex Dominicana loan with BM Leon dated November 13, 2008	DOP	May 13, 2009	100,000,000	2,828,854
Cemex Dominicana loan with BM Leon dated November 14, 2008	DOP	May 14, 2009	100,000,000	2,828,854
Cemex Dominicana loan with Banco Popular dated December 18, 2008	DOP	May 15, 2009	150,000,000	4,243,281
Cemex Dominicana loan with Banco Popular dated December 19, 2008	DOP	May 15, 2009	150,000,000	4,243,281
Cemex SAB de CV Facility with SCB dated August 04, 2008	USD	August 31, 2009	60,000,000	60,000,000
Cemex SAB de CV Facility with BNPP dated March 24, 2008	USD	March 24, 2009	32,000,000	32,000,000
Cemex España Syndicated Agreement (Rinker) dated December 05, 2006	USD	December 6, 2009	1,301,000,000	1,301,000,000
Cemex España JBF Agreement dated January 27, 2009—Facility A (US$)	USD	November 13, 2009	154,375,000	154,375,000
Cemex España JBF Agreement dated January 27, 2009—Facility B (EUR)	EUR	November 13, 2009	144,203,875	202,534,342
Cemex España JBF Agreement dated January 27, 2009—Facility A (US$)	USD	Diciembre 31, 2009	57,382,686	57,382,686
Cemex España JBF Agreement dated January 27, 2009—Facility B (EUR)	EUR	Diciembre 31, 2009	53,601,980	75,283,981
Derivatives Agreements				
Cemex SAB de CV Capital Hedge Amounts due January 2009	USD	January, 2009	11,760,782	11,760,782
Cemex SAB de CV Capital Hedge Amounts due February 2009	USD	February, 2009	93,323,891	93,323,891
Cemex SAB de CV Capital Hedge Amounts due March 2009	USD	March, 2009	7,141,746	7,141,746
Cemex SAB de CV Capital Hedge Amounts due April 2009	USD	Apri1, 2009	48,327,439	48,327,439
Cemex SAB de CV Capital Hedge Amounts due July 2009	USD	July, 2009	21,871,303	21,871,303
Cemex SAB de CV Capital Hedge Amounts due August 2009	USD	August, 2009	11,648,578	11,648,578
Cemex SAB de CV Capital Hedge Amounts due September 2009	USD	September, 2009	42,202,287	42,202,287
Qualified Receivables Transactions				
CEMEX France Finance S.A.S.- ING, Amendment and Restatement Agreement dated 11 December 2006 amending and restating the receivables the Receivables Assignment Agreement dated 31 May 2006 and as from time to time amended	EURO	May 1, 2009	160,000,000	224,720,000
Grol Enterprises, LLC / Cemex, Inc—JP Morgan / Loyds, Amended & Restated Receivables Purchase Agreement dated as of March 20, 2008, amending and restating the Receivables Purchase Agreement dated as of September 21, 2001 and as from time to time amended	USD	March 1, 2009	500,000,000	500,000,000
Cemex Mexico, S.A. de C.V. and Cemex Concreto, S.A. de C.V.- WLB Funding, Agreement for the Sale and Transfer of Ownership of Designated Receivables dated Jan 9, 2008 and as from time to time amended	MXN	Apr-2009	2,298,000,000	174,426,548
				899,146,548
			TOTAL	**4,934,673,704**

Exchange Rates as of Jan 1, 2009	
USD/EURO	1.4045
USD/JPY	0.0110
USD/GBP	1.4678
USD/MXP	0.0759

Debt Facilities, Notes, Bonds, Debt Instruments, Derivatives Agreements and Qualified Receivables Transactions	Currency	Stated Maturity Date	Outstanding Principal Amount	Outstanding in USD
Mexican Unidades de Inversión (UDIs)	4.1855			

Schedule 2.01(h)(i)

Schedule 4.01(l)

Derivatives Agreements

FX and Interest Rate Derivatives	Notional (million USD)	Mark-to-Market (million USD)[1]
Interest Rate Derivatives	$15,594	-$4
Currency Derivatives	$2,424	$2
-CCSs Pesos	$528	-$87
-CCSs Others	$1,896	$89
Capital Hedge	—	—
Equity Derivatives[2]	798	$47
Total	**$18,616**	**-$49**
Dual Currency Perpetual	$2,953	$229
Total	**$21,569**	**$180**

(1) As of closing of January 21, 2009

Schedule 5.06

Litigation Matters

A description of material actions, suits, investigations, litigations or proceedings, including Environmental Actions, affecting Borrower or any of its Subsidiaries before any court, Governmental Authority or arbitrator is provided below.

Environmental Matters

United States

As of December 31, 2008, CEMEX, Inc. and its subsidiaries had accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately U.S.$43.0 million. The environmental matters relate to (i) the disposal of various materials, in accordance with past industry practice, which might be categorized as hazardous substances or wastes, and (ii) the cleanup of sites used or operated by CEMEX, Inc., including discontinued operations, regarding the disposal of hazardous substances or wastes, either individually or jointly with other parties. Most of the proceedings are in the preliminary stage, and a final resolution might take several years. For purposes of recording the provision, CEMEX, Inc. considers that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. The ultimate cost that might be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work, and negotiations with or litigation against potential sources of recovery have been completed.

CEMEX Construction Materials Florida, LLC f/k/a Rinker Materials of Florida, Inc., a subsidiary of CEMEX, Inc., holds one federal quarry permit and is the beneficiary of one of 10 other federal quarrying permits granted for the Lake Belt area in South Florida. The permit held by CEMEX Florida covers CEMEX Florida's SCL and FEC quarries. CEMEX Florida's Krome quarry is operated under one of the other federal quarry permits. The FEC quarry is the largest of CEMEX Floridas' quarries measured by volume of aggregates mined and sold. CEMEX Florida's Miami cement mill is located at the SCL quarry and is supplied by that quarry. A ruling was issued on March 22, 2006 by a judge of the U.S. District Court for the Southern District of Florida in connection with litigation brought by environmental groups concerning the manner in which the permits were granted. Although not named as a defendant, CEMEX Florida has intervened in the proceedings to protect its interests. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the relevant governmental agencies in connection with the issuance of the permits. The judge remanded the permits to the relevant governmental agencies for further review, which review the governmental agencies have indicated in a recent announcement should take until mid February 2009 to conclude. The judge also conducted further proceedings to determine the activities to be conducted during the remand period. In July 2007, the judge issued a ruling that halted certain quarrying operations at three non-CEMEX Florida quarries. The judge left in place CEMEX Florida's Lake Belt permits until the relevant government agencies complete their review. In a May 2008 ruling, the federal appellate court determined that the district court judge did not apply the proper standard of review to the permit issuance decision of the governmental agency, vacated the district court's prior order, and remanded the proceeding to the district court to apply the proper standard of review; this review remains pending before the district court judge. If the Lake Belt permits are ultimately set aside or quarrying operations under them restricted, CEMEX Florida will need to source aggregates, to the extent available, from other locations in Florida or import aggregates. This would likely affect profits from our Florida operations. Any adverse impacts on the Florida economy arising from the cessation or significant restriction of quarrying operations in the Lake Belt could also have a material adverse effect on our financial results.

Europe

In Great Britain, future expenditure on closed and current landfill sites has been assessed and quantified over the period in which the sites are considered to have the potential to cause environmental harm, generally consistent with the regulator view of up to 60 years from the date of closure. The assessed expenditure relates to the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure. The costs have been quantified on a net present value basis in the amount of approximately £122 million, and an accounting provision for this sum has been made at December 31, 2007.

In 2003, the European Union adopted a directive implementing the Kyoto Protocol on climate change and establishing a greenhouse gas emissions allowance trading scheme within the European Union. The directive requires Member States to impose binding caps on carbon dioxide emissions from installations involved in energy activities, the production and processing of ferrous metals, the mineral industry (including cement production) and the pulp, paper or board production business. Under this scheme, companies with operations in these sectors receive from the relevant Member States allowances that set limitations on the levels of greenhouse gas emissions from their installations. These allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that are not reaching their emissions objectives. Companies can also use credits issued from the use of the flexibility mechanisms under the Kyoto protocol to fulfill their European obligations. These flexibility mechanisms provide that credits (equivalent to allowances) can be obtained by companies for projects that reduce greenhouse gas emissions in emerging markets. These projects are referred to as Clean Development Mechanism ("CDM") or joint implementation projects depending on the countries where they take place. Failure to meet the emissions caps is subject to heavy penalties.

Companies can also use, up to a certain level, credits issued under the flexible mechanisms of the Kyoto protocol to fulfill their European obligations. Credits for Emission Reduction projects obtained under these mechanisms are recognized, up to a certain level, under the European emission trading scheme as allowances. To obtain these emission reduction credits, companies must comply with very specific and restrictive requirements from the United Nations Convention on Climate Change (UNFCC).

As required by directive, each of the Member States established a National Allocations Plan, or NAP, setting out the allowance allocations for each industrial facility for Phase I, from 2005 to 2007. Based on the NAPs established by the Member States of the European Union for the 2005 to 2007 period and our actual production, on a consolidated basis after trading allowances between our operations in countries with a deficit of allowances and our operations in countries with an excess of allowances, and after some external operations, Borrower's Subsidiaries had a surplus of allowances of approximately 1,050,054 tons of carbon dioxide in this Phase I.

For Phase II, comprising 2008 through 2012, however, there has been a reduction in the allowances granted by the Member States that have already approved their NAP, which may result in a consolidated deficit in our carbon dioxide allowances during the period. We believe we may be able to reduce the impact of any deficit by either reducing carbon dioxide emissions in our facilities or by obtaining additional emission credits through the implementation of CDM projects. If we are not successful in implementing emission reductions in our facilities or obtaining credits from CDM projects, we may have to purchase a significant amount of emission credits in the market, because CEMEX has already sold a substantial amount of allowances for Phase II, the cost of which may have an impact on our operating results. As of December 1, 2008, the market value of carbon dioxide allowances for Phase II was approximately €15.45 per ton. CEMEX is taking appropriate measures to minimize our exposure to this market while assuring the supply of our products to our clients.

Schedule 5.06

The Spanish NAP has been finally approved by the Spanish Government, reflecting the conditions that were set forth by the European Commission. The allocations made to our installations allow us to foresee certain availability of allowances, nevertheless, there remains the uncertainty regarding the allocations that, against the reserve for new entrants, shall be requested for the new CEMEX cement plant in Andorra (Teruel), currently under construction, and that it is scheduled to start operating in 2010.

On May 29, 2007, the Polish government filed an appeal before the Court of First Instance in Luxemburg regarding the European Commission's rejection of the initial version of the Polish NAP. The Court has denied Poland's request for a quick path verdict in the case, keeping the case in the regular proceeding path, therefore, the Polish government has started to prepare Polish internal rules on division of allowance at the level already accepted by the European Commission. Seven major Polish cement producers, representing 98% of Polish cement production (including CEMEX Polska), have also filed seven separate appeals before the Court of First Instance regarding the European Commission's rejection. On September 29, 2008 the Court of the First Instance issued an order rejecting CEMEX Polska's appeal without going into the merit of the case. As of December 4, 2008 the final version of the Polish NAP has not been cleared by the Commission; CEMEX's has not determined the impact this may have on CEMEX¨s position in the country.

Tax Matters

Pursuant to amendments to the Mexican income tax law (Ley del Impuesto sobre la Renta), which became effective on January 1, 2005, Mexican companies with direct or indirect investments in entities incorporated in foreign countries whose income tax liability in those countries is less than 75% of the income tax that would be payable in Mexico will be required to pay taxes in Mexico on passive income such as dividends, royalties, interest, capital gains and rental fees obtained by such foreign entities, provided that the income is not derived from entrepreneurial activities in such countries (income derived from entrepreneurial activities is not subject to tax under these amendments). We filed two motions in the Mexican federal courts challenging the constitutionality of the amendments. On June 29, 2006, we obtained a favorable ruling from the Mexican federal court stating that the amendments were unconstitutional. The Mexican tax authority appealed the ruling, and the proceeding was attracted by the Mexican Supreme Court of Justice. On September 9, 2008, the Mexican Supreme Court ruled against CEMEX's constitutional challenge of the controlled foreign corporation tax rules in effect in Mexico for tax years 2005 to 2007. Since the Supreme Court's decision does not pertain to an amount of taxes due or other tax obligations, CEMEX will self-assess any taxes due through the submission of amended tax returns. CEMEX has not yet determined the amount of tax or the periods affected. Based on a preliminary estimate, CEMEX believes this amount will not be material, but no assurance can be given that additional analysis will not lead to a different conclusion. If the tax authorities do not agree with CEMEX's self-assessment of the taxes due for past periods, they may assess additional amounts of taxes past due, which may be material and may impact CEMEX cash flows.

The Mexican Congress approved several amendments to the Mexican Asset Tax Law (Ley del Impuesto al Activo) that came into effect on January 1, 2007. As a result of such amendments, all Mexican corporations, including us, are no longer allowed to deduct their liabilities from the calculation of the asset tax. We believe that the Asset Tax Law, as amended, is against the Mexican constitution. We have challenged the Asset Tax Law through appropriate judicial action (juicio de amparo).

The asset tax was imposed at a rate of 1.25% on the value of most of the assets of a Mexican corporation. The asset tax was "complementary" to the corporate income tax (impuesto sobre la renta) and, therefore, was payable only to the extent it exceeded payable income tax.

Schedule 5.06

Philippines

As of December 31, 2008, the Philippine Bureau of Internal Revenue (BIR), had assessed APO, Solid, IQAC, ALQC and CSPI, our operating subsidiaries in the Philippines, for deficiency taxes covering taxable years 1998-2005 amounting to a total of approximately 1,994 million Philippine Pesos (approximately U.S.$41.96 million as of December 31, 2008, based on an exchange rate of Philippine Pesos 47.52 to U.S.$1.00, which was the Philippine Peso/Dollar exchange rate on December 31, 2008 as published by the Bangko Sentral ng Pilipinas, the central bank of the Republic of the Philippines).

The majority of the tax assessments result primarily from the disallowance of APO's income tax holiday incentives for taxable years 1999 to 2001 (approximately Philippine Pesos 1,078 million or U.S.$22.68 million as of December 31, 2008, based on an exchange rate of Philippine Pesos 47.52 to U.S.$1.00). We have contested the BIR's assessment, arising from the disallowance of the ITH incentive, with the Court of Tax Appeals (CTA). The initial Division ruling of the CTA was unfavorable, but is subject to further appeal with the CTA as a whole. The assessment is now currently on appeal with the CTA En Banc. A motion was filed with the CTA, requesting the court to hold APO totally not liable for alleged income tax liabilities for all the years covered and to this end cancel and withdraw APO's deficiency income tax assessments for taxable years 1999, 2000 and 2001 on the basis of APO's availment of the tax amnesty described below. As of December 31, 2008, resolution on the aforementioned motion is still pending.

CEMEX Venezuelan Nationalization

In furtherance of Venezuela's announced policy to nationalize certain sectors of the economy, on June 18, 2008, the Nationalization Decree was promulgated, mandating that the cement production industry in Venezuela be reserved for the Government of Venezuela and ordering the conversion of foreign-owned cement companies, including CEMEX Venezuela, into state-controlled companies with Venezuela holding an equity interest of at least 60%. The Nationalization Decree provided for the formation of a transition committee to be integrated with the board of directors of the relevant cement company to guaranty the transfer of control over all activities of the relevant cement company to Venezuela by December 31, 2008. The Nationalization Decree further established a deadline of August 17, 2008 for the shareholders of foreign-owned cement companies, including CEMEX Venezuela, to reach an agreement with the Government of Venezuela on the compensation for the nationalization of their assets. The Nationalization Decree also provided that this deadline may be extended by mutual agreement of the Government of Venezuela and the relevant shareholder. The transition committee, which was to be coordinated by the Ministry of Basic Industries (MIBAN), was never formally instituted and MIBAN never acted in the process, but instead Petroleos de Venezuela (PDVSA) conducted all the conversations.

CEMEX Venezuela and the Government did not reach agreement by the August 17 deadline, and on August 18 the Expropriation Decree was issued by the President of Venezuela, with PDVSA appointed to conduct the expropriation proceedings. Although these proceedings had not yet commenced, PDVSA officials headed a group of PDVSA workers, with the support of the public force, to take over all the facilities of CEMEX Venezuela on August 17. Since no agreement has been reached with the Venezuelan Government as to the compensation to be paid, the Dutch companies that control CEMEX Venezuela filed an arbitration request before the International Center for the Settlement of Investment Disputes against the Government of Venezuela, which request has been registered and the tribunal is in the process of being formed.

As of December 31, 2007, CEMEX Venezuela, S.A.C.A. was the holding entity of several of CEMEX's investments in the region, including CEMEX's operations in the Dominican Republic and Panama, as well as CEMEX's minority investment in Trinidad. In the wake of statements by the Government of Venezuela about the nationalization of assets in Venezuela, in April 2008, CEMEX concluded the transfer of all material non-Venezuelan investments to CEMEX España for approximately U.S.$355 million plus U.S.$112 million of net debt, having distributed all accrued profits from the non-Venezuelan investments

to the stockholders of CEMEX Venezuela amounting to approximately U.S.$132 million. At this time, the net impact or the outcome of the nationalization on CEMEX's consolidated financial results cannot be reasonably estimated. As of December 31, 2008 the net assets of CEMEX's Venezuelan operations under Mexican FRS were approximately U.S.$451.7 million. Since August 2008, CEMEX no longer consolidates the financial results of CEMEX Venezuela.

On June 13, 2008, the Venezuelan securities authority initiated an administrative proceeding against CEMEX Venezuela, claiming that the company did not sufficiently inform its shareholders and the securities authority in connection with the transfer of the non-Venezuelan assets described above. The Venezuelan authority determined that CEMEX Venezuela did not comply with its disclosure obligations and imposed fines on the company, which we do not consider material, and requested the attorney general's office to review the case to determine if such non-disclosure also constituted criminal infringement.

Other Legal Proceedings

On August 5, 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia, claiming that it was liable along with the other members of the Asociación Colombiana de Productores de Concreto, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system of Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads in a manner which guarantees their service during the 20-year period for which they were originally designed, and estimate that the cost of such repair will be approximately U.S.$45 million. The lawsuit was filed within the context of a criminal investigation of two ASOCRETO officers and other individuals, alleging that the ready-mix concrete producers were liable for damages if the ASOCRETO officers were criminally responsible. The court completed the evidentiary stage, and on August 17, 2006 dismissed the charges against the members of ASOCRETO. The other defendants (one ex-director of the Distrital Institute of Development, the legal representative of the constructor and the legal representative of the contract auditor) were formally accused. The decision was appealed, and on December 11, 2006, the decision was reversed and the two ASOCRETO officers were formally accused as participants (determiners) in the execution of a state contract without fulfilling all legal requirements thereof. The first public hearing took place on November 20, 2007. In this hearing the judge dismissed an annulment petition filed by the ASOCRETO officers. The petition was based on the fact that the officers were formally accused of a different crime than the one they were being investigated for. This decision was appealed, but the decision was confirmed by the Superior Court of Bogota. On January 21, 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called El Tujuelo, as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required within a period of 10 days to deposit with the Court in cash CoP$337,800 million (approximately U.S.$195 million as of June 4, 2008, based on an exchange rate of CoP1730 to U.S.$1.00, which was the Colombian Peso/Dollar exchange rate on June 4, 2008, as published by the Banco de la República de Colombia, the central bank of Colombia), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. The measure does not affect the normal activity of the quarry. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.

Schedule 5.06

On August 5, 2005, Cartel Damages Claims, SA, or CDC, filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG and other German cement companies. CDC is seeking €102 million in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002, which entities had assigned their claims to CDC. CDC is a Belgian company established by two lawyers in the aftermath of the German cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office with the express purpose of purchasing potential damages claims from cement consumers and pursuing those claims against the cartel participants. In January 2006, another entity assigned alleged claims to CDC, and the amount of damages being sought by CDC increased to €113.5 million plus interest. On February 21, 2007, the District Court of Düsseldorf decided to allow this lawsuit to proceed without going into the merits of this case by issuing an interlocutory judgment. All defendants appealed. The appeal hearing took place on April 22, 2008, and the appeal was dismissed on May 14, 2008. The lawsuit will proceed at the level of court of first instance. As of September 30, 2008 only one defendant has decided to file a complaint before the Federal High Court; this will delay the case from proceeding at the level of first instance to an extent we cannot assess today. In the meantime, CDC had acquired new assigners and announced an increase in the claim to €131 million. As of November 30, 2008, we had accrued liabilities regarding this matter for a total amount of approximately €20 million.

During November 4, 5 and 6, 2008, officers of the European Commission, assisted by local officials, conducted an unannounced inspection at CEMEX offices in the United Kingdom and in Germany. It is understood that Commission officials carried out unannounced inspections at the premises of other companies active in the cement and related products industry in several member states. The Commission alleges that CEMEX may have participated in anti competitive agreements and/or concerted practices in breach of Article 81of the EC Treaty and/or Article 53 of the EEA Agreement and abusive conduct in breach of Article 82 of the EC Treaty and/or Article 54 of the EEA Agreement. The allegations extend to several markets worldwide, including in particular the European Economic Area; if those allegations are substantiated, significant penalties may be imposed on the subsidiaries of CEMEX operating in such markets. CEMEX fully co-operated and will continue to co-operate with the Commission officials in connection with the inspection.

After an extended consultation period, in April 2006, the cities of Kaštela and Solin in Croatia published their respective Master (physical) Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to Dalmacijacement, our subsidiary in Croatia, by the Government of Croatia in September 2005. During the consultation period, Dalmacijacement submitted comments and suggestions to the Master Plans, but these were not taken into account or incorporated into the Master Plan by Kaštela and Solin. Most of these comments and suggestions were intended to protect and preserve the rights of Dalmacijacement´s mining concession granted by the Government of Croatia in September 2005. Immediately after publication of the Master Plans, Dalmacijacement filed a series of lawsuits and legal actions before the local and federal courts to protect its acquired rights under the mining concessions. The legal actions taken and filed by Dalmacijacement were as follows: (i) on May 17, 2006, a constitutional appeal before the constitutional court in Zagreb, seeking a declaration by the court concerning Dalmacijacement's constitutional claim for decrease and obstruction of rights earned by investment, and seeking prohibition of implementation of the Master Plans, the appeal is currently under review by the constitutional court in Croatia, and it is expected that this proceeding will continue for several years before resolution; (ii) on May 17, 2006, a possessory action against the cities of Kaštela and Solin seeking the enactment of interim measures prohibiting implementation of the Master Plans and including a request to implead the Republic of Croatia into the proceeding on our side. The municipal court in Solin issued a first instance judgment dismissing our possessory action. We filed an appeal against that judgment. The appeal has been resolved by the Solin County Court, affirming the judgment and rendering it final. The Municipal Court in Kaštela has issued a first instance judgment dismissing our possessory action. We filed an appeal against said judgment, which

has since been resolved by the Kaštela Country Court, affirming the judgment and rendering it final; (iii) on May 17, 2006, an administrative proceeding before the State Lawyer, seeking a declaration from the Government of Croatia confirming that Dalmacijacement acquired rights under the mining concessions. Dalmacijacement received State Lawyer's opinion which confirms the Dalmacijacement's acquired rights according to the previous decisions ("old concession"). The Administrative Court in Croatia has ruled in favor of Dalmacijacement, validating the legality of the mining concession granted to Dalmacijacement by the Government of Croatia. This decision is final. Currently it is difficult for Dalmacijacement to ascertain the approximate economic impact of these measures by Kaštela and Solin.

Club of Environmental Protection, a Latvian environmental protection organization (hereinafter the "Applicant"), has initiated a court administrative proceeding against the decision made by the Environment State Bureau (hereinafter the "Defendant) in order to amend the environmental pollution permit (the "Permit") for the Broceni Cement Plant in Latvia, owned by CEMEX SIA (the "Disputed Decision"). CEMEX SIA was invited to participate in the court proceedings as a third party, whose rights and legal interest may be infringed by the relevant administrative act. On June 5, 2008 the Court rendered its judgment, where it satisfied the Claimant's claim and revoked the Disputed Decision stating that it is illegal because Defendant failed to perform public inquiry in accordance with legal regulations. The judgment has been appealed by both the Defendant and CEMEX SIA before the Court of Appeal and the court will hear the case in February 24, 2009. The appellate procedure will not suspend the operation of the Permit which will remain valid throughout the court proceedings, hence CEMEX SIA is allowed to continue to perform its activities. The Permit subject to this proceeding was issued for the existing cement line, which will be fully substituted in the first half of 2009 by a new cement line currently under construction.

Schedule 5.06

Schedule 5.10

Material Subsidiaries

CEMEX MEXICO, S.A. DE C.V.
CEMEX MATERIALS LLC (f/k/a Rinker Materials LLC f/k/a Rinker Material Corp.)
CEMEX EGYPTIAN INVESTMENTS B.V.
CEMEX COLOMBIA, S.A.
CEMEX ESPAÑA, S.A.
CEMEX CONCRETOS, S.A. DE C.V.
CEMEX AUSTRALIA HOLDINGS PTY LIMITED

SCHEDULE 8.02(e)

LIEN

(Figures In Millions, USD)

Name of Cemex Subsidiary	Counterparty	Lien Concept	January-2008	Agreement Type
CEMEX, Inc.	Hampton	Land related with a Promissory Note	$ 0.004	Promissory Note between Mr. Paul E. Hampton, Jr. and wife and Comex, Inc., dated October 31, 1985.
RMC Beton Śląsk Sp. z o.o.	SG Equipment Leasing Polska Sp. z o.o.	Plant Equipment Lien	$ 1.776	Equipment Leasing Agreement by and between SG Equipment Leasing Polska Sp. z o.o. RMC Beton Śląsk Sp. z o.o. and dated June 23rd, 2006.
CEMEX BETONS CENTRE et BRETAGNE	CITICAPITAL	Plant Equipment Lien	$ 0.006	Leasing Agreement CITICAPITAL - BETON DE FRANCE CENTRE ET BRETAGNE dated June 30, 2002.
CEMEX GRANULATS RHONE-MEDITERRANEE	SLIBAIL IMMOBILIER	Plant Equipment Lien	$ 0.738	Leasing Agreement by and between "SLIBAIL IMMOBILIER" and "MORRILLON CORVOL RHONE MEDITERRANEE dated July 24, 2000.
CEMEX BETONS NORD QUEST	SLIBAIL IMMOBILIER	Plant Equipment Lien	$ 0.130	Leasing Agreement by and between SLIBAIL IMMOBILIER – SAS BETON DE FRANCE NORMANDIE dated June 03 2002.
ETABLISSEMENT CHARROY	BAIL ACTEA	Plant Equipment Lien	$ 0.028	Leasing Agreement by and between BAIL ACTEA - SA Ets CHARROY dated August 28, 2003.
Cemex Sands, s.r.o.	Impuls Leasing Austria, s.r.o.	Machinery and Equipment for Operations	$ 0.079	Financial Leasing between Comex Sand, s.r.o. and Impulse Leasing Austria dated March 2008.
Transbeton Lieferbeton Gesellschaft m.b.H.	Raiffeisenbank Bruck an der Mur eg. Gen.	Plant Equipment Lien	$ 3.392	Leasing agreement on movables entered by and between Reiffeisen-Leasing Mobilien und KFZ GmbH and Trans-Beton Ges.m.b.H. dated March 31, 2004.
CEMEX Klas Hamburg GmbH & Co. KG	Kreissparkasse Herzogfum Lauenburg	Land Lien	$ 0.253	Leasing Agreement Kreissparkasse Herzogfum Lauenburg – Wunder GmbH, Wunder Kiestransporte GmbH undGünter Wunder Baustoffhandel dated March 22, 1994.
Cemex UK Operations Limited	ING Lease (UK) Limited	Plant Equipment Lien	$ 14.879	Leasing Master Agreement by and between Kleinworth Benson Fleet Finance Limited and Rombus Materials Limited dated December 31, 1997. Assignment and Continuation Schedule dated September 30, 2005 between ING Lease Fleet Finance Limited and Cemex UK Operations Ltd.
Cemex UK Operations Limited	Lloyds TSB Asset Finance	Plant Equipment Lien	$ 2.792	Lease Agreement by and between The Rugby Group PLC and UDT Budget Leasing Limited dated 21 of December 1998.
RMC Beton Śląsk Sp. z o.o.	Bankowy Fundusz Leasingowy S.A.	Plant Equipment Lien	$ 0.016	Leasing Agreement by and between Bankowy Fundusz Leasingowy, S.A. and RMC Beton Śląsk, Sp. z o.o. dated March 11th, 2008.
Cemex S.A.B. de C.V. and Subsidiaries	Different Banks	Cash Collateral	$ 486.904	ISDA Agreements Different Banks Regarding Margin Calls in Derivatives Instruments.
Cemex S.A.B. de C.V. and Subsidiaries	Banco Nacional de Comercio Exterior	Cemex, S.A.B. de C.V. and Cementos Chihuahua, S.A.B. de C.V. shares	$ 250.000	Credit Agreement entered on October 14, 2009 Secured with a Stock Pledge.
Cemex S.A.B. de C.V. and Cemex México, S.A. de C.V.	National Financiera S.N.C.,	Cemex México's headquarters Edificio Constitución # 444 in Monterrey, N.L.	$ 50.462	Credit Agreement to issue the government guaranty (aval) on Cemex' short term Certificados Bursàtiles entered on October 22, 2008.
		TOTAL	$ 811.460	

EXHIBIT A1
FORM OF TRANCHE A NOTE
LIBOR

PROMISSORY NOTE
NON NEGOTIABLE

US$[ ]

FOR VALUE RECEIVED, the undersigned, CEMEX, S.A.B. de C.V. (the "Borrower"), by this Promissory Note unconditionally promises to pay to the order of [ ] (the "Lender"), the principal sum of US$[ ] ([ ] Dollars 00/100, lawful currency of the United States of America), payable on each of the dates (each a "Principal Payment Date" and the last of such dates the "Final Payment Date") and in the amounts set forth below:

Principal Payment Date	Amount
November 13, 2009	US$[ ]
February 26, 2010	US$[ ]
May 28, 2010	US$[ ]
August 31, 2010	US$[ ]
November 30, 2010	US$[ ]
February 28, 2011	US$[ ]

The Borrower also promises to pay interest on the unpaid principal amount of this Promissory Note, from the date hereof until the Final Payment Date, for each day during each Interest Period (as defined below), at the Interest Rate (as defined below) applicable during each Interest Period. Interest shall be payable in arrears, on the Interest Payment Date (as defined below) and on the date of payment hereof in full.

Any principal amount and (to the extent permitted by applicable law) interest not paid when due under this Promissory Note, shall bear default interest for each day until paid, payable on demand, at a rate per annum equal to the sum of the Interest Rate applicable during each Interest Period on which the default occurs and is continuing plus 2.00%.

Interest hereunder shall be calculated on the basis of the actual number of days elapsed (including the first day but excluding the last day), divided by 360.

For purposes of this Promissory Note, the following terms shall have the following meanings:

"Administrative Agent" means BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, in its capacity as administrative agent for the lenders, and its successors in such capacity.

"Applicable Margin" means 3.00% per annum.

"Business Day" means any day other than a Saturday or Sunday or other day on which commercial banks in New York City or Mexico City are authorized or required by law to close and on which dealings in Dollars deposits are conducted by and between banks in the London interbank market.

PAGARÉ
NO NEGOCIABLE

EUA$[ ]

POR VALOR RECIBIDO, la suscrita, CEMEX, S.A.B. de C.V., (el "Deudor"), por este Pagaré promete incondicionalmente pagar a la orden de [ ] (el "Acreedor"), la suma principal de EUA$[ ] ([ ] de Dólares 00/100, moneda de curso legal de los Estados Unidos de América), pagadera en las fechas (cada una, una "Fecha de Pago de Principal" y la ultima de las mismas, la "Fecha de Pago Final") y en las cantidades abajo señaladas:

Fecha de Pago de Principal	Monto
13 de noviembre de 2009	EUA$[ ]
26 de febrero de 2010	EUA$[ ]
28 de mayo de 2010	EUA$[ ]
31 de agosto de 2010	EUA$[ ]
30 de noviembre de 2010	EUA$[ ]
28 de febrero de 2011	EUA$[ ]

El Deudor promete, asimismo, pagar intereses sobre el saldo insoluto de principal de este Pagaré, desde la fecha del presente hasta la Fecha de Pago Final, por cada día durante cada Período de Intereses (según se define más adelante), a la Tasa de Interés (según se define más adelante), aplicable durante cada Período de Intereses. Los intereses se pagarán en forma vencida, en la Fecha de Pago de Intereses (según dicho término se define más adelante) y en la fecha de pago del monto total conforme al presente.

Cualquier monto de principal y (en la medida permitida por legislación aplicable) de intereses que no sea pagado cuando sea debido conforme a este Pagaré, devengará intereses moratorios por cada día hasta que sean pagados, pagaderos a la vista, a una tasa anual igual a la suma de la Tasa de Interés aplicable durante cada Período de Intereses en que ocurra y continúe el incumplimiento más 2.00%.

Los intereses conforme al presente serán calculados sobre la base del número de días efectivamente transcurridos (incluyendo el primer día pero excluyendo el último), divididos entre 360.

Para efectos de éste Pagaré, los siguientes términos tendrán los siguientes significados:

"Agente Administrativo" significa BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, en su función como agente administrativo en representación de los acreedores, y sus sucesores en tal carácter.

"Margen Aplicable" significa 3.00% anual.

"Día Hábil" significa cualquier día distinto de un Sábado o Domingo o a cualquier día en que los bancos comerciales estén autorizados u obligados a cerrar en la Ciudad de Nueva York o en la Ciudad de México y, en que se conduzcan operaciones de depósito en Dólares entre los bancos en el mercado interbancario de Londres.

"Interest Payment Date" means the last Business Day of each February, May, August, November and the Final Payment Date.

"Interest Period" means, in the case of the initial Interest Period hereunder, the period commencing on the date hereof and ending on the next succeeding Interest Payment Date and in the case of each subsequent Interest Period hereunder, the period commencing on the immediately preceding Interest Payment Date and ending on the next succeeding Interest Payment Date, provided, however, that any Interest Period which would otherwise end after the Final Payment Date shall end on the Final Payment Date.

"Interest Rate" means, with respect to each Interest Period, the sum of the LIBOR applicable during such Interest Period plus the Applicable Margin.

"LIBOR" means (a) the applicable Screen Rate; or (b) (if no Screen Rate is available) the arithmetic mean of the rates (rounded upwards to four (4) decimal places) as supplied to the Administrative Agent at its request quoted by the Reference Banks to leading banks in the London interbank market, as of approximately 11:00 a.m. (New York City time) on the Quotation Day for the offering of deposits in Dollars of the United States of America and for a period comparable to the Interest Period hereunder.

"Quotation Day" means, in relation to Interest Period, two (2) Business Days before the first day of such Interest Period.

"Reference Banks" means Citibank, N.A., and JPMorgan Chase Bank.

"Screen Rate" means in relation to LIBOR, the British Bankers Association Interest Settlement Rate for deposits in Dollars of the United States of America for a 3 month period, displayed on the appropriate page of the Reuters screen. If such page is replaced or service ceases to be available, the Administrative Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower and the Lender.

All payments to be made by the Borrower hereunder shall be made without setoff, deduction or counterclaim not later than 3:30 P.M. (New York City time), on the date due, in U.S. Dollars, in immediately available funds, to the account maintained by the Administrative Agent at [ ], and with payment instructions of [ ], Reference: [ ]. The Borrower agrees to reimburse upon demand, in like manner and funds, all out-of-pocket costs and expenses of the holder hereof, incurred in connection with the enforcement of this Promissory Note (including, without limitation, all legal fees and expenses).

"Fecha de Pago de Intereses" significa el último Día Hábil de cada febrero, mayo, agosto, noviembre y la Fecha de Pago Final.

"Período de Intereses" significa, respecto del primer Periodo de Intereses, el periodo que comienza en la fecha del presente y termina en la siguiente Fecha de Pago de Intereses, y en el caso de cada Periodo de Intereses subsecuente conforme a este Pagaré, el periodo que comienza en la Fecha de Pago de Intereses inmediata anterior y termina en la Fecha de Pago de Intereses inmediata siguiente, en el entendido que cualquier Periodo de Intereses que terminaría después de la Fecha de Pago Final terminará en la Fecha de Pago Final.

"Tasa de Interés" significa, respecto de cada Período de Intereses, la suma de la LIBOR aplicable durante dicho Período de Intereses más el Margen Aplicable.

"LIBOR" significa, (a) la Tasa de Pantalla o (b) (si la Tasa de Pantalla no esta disponible), el promedio aritmético de las tasas (redondeado hacia arriba a cuatro (4) puntos decimales) reportadas al Agente Administrativo, a su solicitud, por los Bancos de Referencia como las tasas ofrecidas a los bancos lideres en el mercado interbancario de Londres, aproximadamente a las 11:00 a.m. (hora de Nueva York) en el Día de la Publicación, para depósitos en Dólares de los Estados Unidos de América, por un periodo comparable a los Periodos de Intereses conforme al presente.

"Día de Publicación" significa, respecto de cualquier Período de Intereses, dos (2) Días Hábiles antes del primer día de dicho Período de Intereses.

"Banco de Referencia" significa Citibank, N.A. y JPMorgan Chase Bank.

"Tasa de Pantalla" significa, respecto de LIBOR, la Tasa de Interés de la Asociación Británica de Banqueros (*British Bankers Association Interest Settlement Rate*), publicada en la página apropiada de la pantalla de Reuters. Si dicha página es remplazada o el servicio deja de estar disponible, el Agente Administrativo podrá especificar otra página o servicio en el que se publique la tasa de interés apropiada, una vez que lo haya consultado con el Deudor y el Acreedor.

Todos los pagos que el Deudor deba hacer conforme a este Pagaré serán efectuados sin compensación, deducción o defensa, antes de las 3:30 P.M. (hora de la Ciudad de Nueva York), en la fecha en que venzan en Dólares de los Estados Unidos de América, en fondos disponibles inmediatamente, a la cuenta que mantiene el Agente Administrativo en [ ], y con instrucciones de pago de [ ], Referencia:[ ]. El Deudor conviene en rembolsar a la vista, en la misma forma y fondos, todos los costos y gastos incurridos en relación con el procedimiento de cobro del presente Pagaré (incluyendo, sin limitación, todos los costos y gastos legales).

All payments of principal and interest by the Borrower hereunder, shall be made free and clear of and without deduction for any present or future income, excise, stamp or franchise taxes and other taxes, fees, duties, withholdings or other charges of any nature whatsoever imposed by the United Mexican States or any other jurisdiction from which any amount payable hereunder is made, or any taxing authority thereof or therein, unless required by law, excluding, (a) such taxes (including income taxes or franchise taxes) imposed on or measured by the net income or capital of the Lender by the jurisdiction (or any political subdivision thereof) under the laws of which it is organized or maintains a lending office or its principal office or as are imposed on the Lender as a result of a present or former connection between the Lender and the jurisdiction of the governmental authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from the Lender having received a payment hereunder, or enforced, this Promissory Note) and (b) any taxes, levies, imposts, deductions, charges or withholdings to the extent imposed by reason of the Lender's failure to (i) register as a foreign financial institution with the Mexican Ministry of Finance and Public Credit and (ii) be a resident (or have a principal office which is a resident) for tax purposes of a jurisdiction with which Mexico has in effect a treaty for the avoidance of double taxation (but only in respect of those taxes payable in excess of taxes that would have been payable had the Lender complied with those conditions). In the event that the Borrower shall be compelled by law to make any such deduction or withholding in respect of payments hereunder, then the Borrower shall pay such additional amounts as may be necessary so that the holder hereof receives the full amounts it would have received if such deductions or withholdings would not have been made.

Todos los pagos de principal e intereses que se efectúen por el Deudor al amparo del presente, se harán libres de y sin deducción por cualquier impuesto sobre la renta, del timbre o impuesto sobre franquicias y otros impuestos, contribuciones, derechos, retenciones u otras cargas, presentes o futuros, de cualquier naturaleza establecidos por los Estados Unidos Mexicanos o cualquier otra jurisdicción desde la que cualquier suma pagadera conforme al presente sea pagada, o por cualquier autoridad fiscal de los mismos, a menos que la ley requiera lo contrario, excluyendo (a) impuestos (incluyendo impuestos sobre la renta o de franquicia) impuestos o calculados respecto de los ingresos netos o el capital del Acreedor por el país (o subdivisión política del mismo) conforme a las leyes de su constitución o del lugar donde mantenga una oficina de préstamos u oficina principal o que se impongan al Acreedor como resultado de una relación actual o pasada entre el Acreedor y el país de la autoridad gubernamental que imponga dicho impuesto o cualquier subdivisión o autoridad fiscal del mismo (salvo que dicha relación derive exclusivamente de los pagos que el Acreedor reciba al amparo de este Pagaré o de la exigibilidad del mismo) y (b) cualesquier impuestos, cargas, deducciones, cargas o retenciones que se impongan como resultado de que el Acreedor (i) no esté registrado como una institución financiera extranjera ante la Secretaría de Hacienda y Crédito Público y (ii) no sea un residente (o tenga una oficina principal que sea residente) para efectos fiscales de un país con el que México tenga en vigor un tratado para evitar la doble tributación (pero solo con respecto a aquellos impuestos en exceso a los impuestos que hubieran sido pagaderos si el Acreedor hubiera cumplido con dichas condiciones). En caso que el Deudor esté legalmente obligado a llevar a cabo cualquier retención o deducción respecto de pagos conforme al presente, el Deudor pagará las sumas adicionales que sean necesarias para asegurar que las sumas recibidas por el tenedor del presente sean iguales a la suma que hubiera recibido si tales retenciones o deducciones no se hubieren llevado a cabo.

Solely to the extent that the law of the Unites States of Mexico applies, for purposes of Article 128 of the General Law of Negotiable Instruments and Credit Transactions of the United Mexican States, the term of presentment of this Promissory Note is hereby irrevocably extended until June 30, 2011, provided that such extension shall not be deemed to prevent presentment of this Promissory Note prior to such date.

Únicamente en los casos en que la ley de los Estados Unidos Mexicanos aplique, para los efectos del Artículo 128 de la Ley General de Títulos y Operaciones de Crédito de los Estados Unidos Mexicanos, el plazo de presentación de este Pagaré en este acto se amplía irrevocablemente hasta el 30 de junio de 2011, en el entendido que dicha extensión no impedirá la presentación de este Pagaré con anterioridad a dicha fecha.

This Promissory Note shall be governed by, and construed in accordance with, the laws of the State of New York, United States of America, provided, however, that if any action or proceeding in connection with this Promissory Note were brought to any courts in the United Mexican States, this Promissory Note shall be deemed governed by the laws of the United Mexican States.

Este Pagaré se regirá e interpretará de acuerdo con las leyes del Estado de Nueva York, Estados Unidos de América; en el entendido, sin embargo, que si cualquier acción o procedimiento relacionado con este Pagaré se iniciare en los tribunales de los Estados Unidos Mexicanos, este Pagaré se considerará regido por las leyes de los Estados Unidos Mexicanos.

Any legal action or proceeding arising out of or relating to this Promissory Note may be brought to the jurisdiction of the United States District Court for the Southern District of New

Cualquier acción o procedimiento legal que derive o se relacione con este Pagaré podrá ser instituido en el tribunal de distrito de los Estados Unidos para el Distrito Sur del Estado de Nueva York, y

York and of any New York State court located in the Borough of Manhattan in New York City and any appellate court thereof, or any federal court sitting in Mexico City, Federal District, United Mexican States, or in the courts of the Borrower's domicile. The Borrower waives the right to jurisdiction of any other courts.

cualquier tribunal estatal ubicado en distrito municipal de Manhattan en la Ciudad de Nueva York y cualquier tribunal de apelación de cualesquiera de los mismos, o en cualquier tribunal federal localizado en la Ciudad de México, Distrito Federal, Estados Unidos Mexicanos, o los tribunales localizados en el domicilio del Deudor. El Deudor renuncia a la jurisdicción de cualesquiera otros tribunales.

The Borrower hereby waives diligence, demand, protest, presentment, notice of dishonor or any other notice or demand whatsoever.

El Deudor en este acto renuncia a diligencia, demanda, protesto, presentación, notificación de no aceptación y a cualquier notificación o demanda de cualquier naturaleza.

This Promissory Note is executed in both English and Spanish versions. In the case of any conflict or doubt as to the proper construction of this Promissory Note, the English version shall govern, provided, however, that in any action or proceeding brought in any court in the United Mexican States, the Spanish version shall prevail.

El presente Pagaré se suscribe en versiones en inglés y español. En caso de conflicto o duda en relación con la debida interpretación de este Pagaré, la versión en inglés prevalecerá, en el entendido, sin embargo, que en cualquier procedimiento iniciado en los Estados Unidos Mexicanos, prevalecerá la versión en español.

IN WITNESS WHEREOF, the Borrower has duly executed this Promissory Note on the date mentioned below.

EN VIRTUD DE LO CUAL, el Deudor ha firmado este Pagaré en la fecha abajo mencionada.

San Pedro Garza García, Nuevo León, Mexico, on January [ ], 2009.

San Pedro Garza García, Nuevo León, México, el [ ] de enero de 2009.

The Borrower / El Deudor

CEMEX, S.A.B. de C.V.

By / Por: [ ]
Name / Nombre: [ ]
Title / Cargo: [ ]
Address / Dirección:
[ ]
[ ]
[ ]

Guaranteed / Por Aval

CEMEX MÉXICO, S.A. de C.V.

By / Por: [ ]
Name / Nombre: [ ]
Title / Cargo: [ ]

CEMEX CONCRETOS, S.A. de C.V.

By / Por: [ ]
Name / Nombre: [ ]
Title / Cargo: [ ]

EXHIBIT A1

EXHIBIT A2
FORM OF TRANCHE B NOTE

PROMISSORY NOTE
NON NEGOTIABLE

MXN$[ ]

FOR VALUE RECEIVED, the undersigned, CEMEX, S.A.B. de C.V. (the "Borrower"), by this Promissory Note unconditionally promises to pay to the order of [ ] (the "Lender"), the principal sum of MXN$[ ] ([ ] currency of the United Mexican States) payable on each of the dates (each a "Principal Payment Date", and the last of such dates the "Final Payment Date") and in the amounts set forth below:

Principal Payment Date	Amount
November 13, 2009	MXN$[ ]
February 26, 2010	MXN$[ ]
May 28, 2010	MXN$[ ]
August 31, 2010	MXN$[ ]
November 30, 2010	MXN$[ ]
February 28, 2011	MXN$[ ]

The Borrower also promises to pay interest on the unpaid principal amount of this Promissory Note, from the date hereof until the Final Payment Date, for each day during each Interest Period (as defined below), at the Interest Rate (as defined below) applicable during each Interest Period. Interest shall be payable in arrears, on the Interest Payment Date (as defined below) and on the date of payment hereof in full.

Any principal amount and (to the extent permitted by applicable law) interest not paid when due under this Promissory Note, shall bear default interest for each day until paid, payable on demand, at a rate per annum equal to the sum of the Interest Rate applicable during each Interest Period on which the default occurs and is continuing plus 2.00%.

Interest hereunder shall be calculated on the basis of the actual number of days elapsed (including the first day but excluding the last day), divided by 360.

For purposes of this Promissory Note, the following terms shall have the following meanings:

"Administrative Agent" means BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, in its capacity as administrative agent for the lenders, and its successors in such capacity.

PAGARÉ
NO NEGOCIABLE

$[ ] M.N.

POR VALOR RECIBIDO, la suscrita, CEMEX, S.A.B. de C.V. (el "Deudor"), por este Pagaré promete incondicionalmente pagar a la orden de [ ] (el "Acreedor"), la suma principal de MXN$[ ] ([ ] Pesos 00/100, moneda de curso legal de los Estados Unidos Mexicanos), pagadera en las fechas (cada una, una "Fecha de Pago de Principal" y la ultima de las mismas, la "Fecha de Pago Final") y en las cantidades abajo señaladas:

Fecha de Pago de Principal	Monto
13 de noviembre de 2009	M.N.$[ ]
26 de febrero de 2010	M.N.$[ ]
28 de mayo de 2010	M.N.$[ ]
31 de agosto de 2010	M.N.$[ ]
30 de noviembre de 2010	M.N.$[ ]
28 de febrero de 2011	M.N.$[ ]

El Deudor promete, asimismo, pagar intereses sobre el saldo insoluto de principal de este Pagaré, desde la fecha del presente hasta la Fecha de Pago Final, por cada día durante cada Período de Intereses (según se define más adelante), a la Tasa de Interés (según se define más adelante), aplicable durante cada Período de Intereses. Los intereses se pagarán en forma vencida, en la Fecha de Pago de Intereses (según dicho término se define más adelante) y en la fecha de pago del monto total conforme al presente.

Cualquier monto de principal y (en la medida permitida por legislación aplicable) de intereses que no sea pagado cuando sea debido conforme a este Pagaré, devengará intereses moratorios por cada día hasta que sean pagados, pagaderos a la vista, a una tasa anual igual a la suma de la Tasa de Interés aplicable durante cada Período de Intereses en que ocurra y continúe el incumplimiento más 2.00%.

Los intereses conforme al presente serán calculados sobre la base del número de días efectivamente transcurridos (incluyendo el primer día pero excluyendo el último), divididos entre 360.

Para efectos de éste Pagaré, los siguientes términos tendrán los siguientes significados:

"Agente Administrativo" significa BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, en su función como agente administrativo en representación de los acreedores, y sus sucesores en tal carácter.

"Applicable Margin" means 2.50% per annum.

"Business Day" means any day other than a Saturday or Sunday or other day on which commercial banks in New York City or Mexico City are authorized or required by law to close and, any such day on which dealings in Pesos deposits are conducted by and between banks in the Mexican interbank market.

"Interest Payment Date" means the last Business Day of each month and the Final Payment Date, provided that the first Interest Payment Date shall be the last Business Day in February 2009.

"Interest Period" means, in the case of the initial Interest Period hereunder, the period commencing on the date hereof and ending on the next succeeding Interest Payment Date and in case of each subsequent Interest Period hereunder, the period commencing on the immediately preceding Interest Payment Date and ending on the next succeeding Interest Payment Date, provided, however, that any Interest Period which would otherwise end after the Final Payment Date shall end on the Final Payment Date.

"Interest Rate" means, with respect to each Interest Period, the sum of the TIIE applicable during such Interest Period plus the Applicable Margin.

"TIIE" means, a periodic rate equal to the Mexican Benchmark Interbank Rate (*Tasa de Interés Interbancaria de Equilibrio*) (*TIIE*) for a period of 28 days, as quoted by the Mexican Central Bank (*Banco de México*) and published in the Federal Official Gazette (*Diario Oficial de la Federación*) on the first day of the applicable Interest Period or if such day is not a Business Day, on the immediately preceding Business Day. Interest shall be calculated on the basis of a year of 360 days for actual days elapsed.

All payments to be made by the Borrower hereunder shall be made without setoff, deduction or counterclaim not later than 3:30 P.M. (Mexico City time), on the date due, in Pesos of the United Mexican States, in immediately available funds, to the account maintained by the Administrative Agent at [ ] CLABE: [ ], Attention: [ ].
The Borrower agrees to reimburse upon demand, in like manner and funds, all out-of-pocket costs and expenses of the holder hereof, incurred in connection with the enforcement of this Promissory Note (including, without limitation, all legal fees and expenses).

"Margen Aplicable" significa 2.50% anual.

"Día Hábil" significa cualquier día distinto de un Sábado o Domingo, o distinto a cualquier día en que los bancos comerciales sean requeridos o estén autorizados a cerrar en la Ciudad de Nueva York o en la Ciudad de México y, cualquier día en que se conduzcan operaciones de depósito en Pesos entre los bancos en el mercado interbancario mexicano.

"Fecha de Pago de Intereses" significa el último Día Hábil de cada mes y la Fecha de Pago Final, en el entendido que la primer Fecha de Pago de Intereses será el último Día Hábil en febrero de 2009.

"Período de Intereses" significa, respecto del primer Periodo de Intereses, el periodo que comienza en la fecha del presente y termina en la siguiente Fecha de Pago de Intereses, y en el caso de cada Periodo de Intereses subsecuente conforme a este Pagaré, el periodo que comienza en la Fecha de Pago de Intereses inmediata anterior y termina en la Fecha de Pago de Intereses inmediata siguiente, en el entendido que cualquier Periodo de Intereses que terminaría después de la Fecha de Pago Final terminará en la Fecha de Pago Final.

"Tasa de Interés" significa, respecto de cada Período de Intereses, la suma de la TIIE aplicable durante dicho Período de Intereses más el Margen Aplicable.

"Tasa TIIE" significa, la tasa periódica equivalente a la Tasa de Interés Interbancaria de Equilibrio (TIIE) para un periodo de 28 días, según sea publicada por el Banco de México en el Diario Oficial de la Federación el primer día del Período de Intereses aplicable, o si dicho día no es un Día Hábil, en el Día Hábil inmediatamente siguiente. Los Intereses serán calculados por los días efectivamente transcurridos en base a un año de 360 días.

Todos los pagos que el Deudor deba hacer conforme a este Pagaré serán efectuados sin compensación, deducción o defensa, antes de las 3:30 P. M. (hora de la Ciudad de México), en la fecha en que venzan en Pesos de los Estados Unidos de Mexicanos, en fondos disponibles inmediatamente, a la cuenta que mantiene el Agente Administrativo en [ ], CLABE: [ ], Attention: [ ]. El Deudor conviene en rembolsar a la vista, en la misma forma y fondos, todos los costos y gastos incurridos en relación con el procedimiento de cobro del presente Pagaré (incluyendo, sin limitación, todos los costos y gastos legales).

All payments of principal and interest by the Borrower hereunder, shall be made free and clear of and without deduction for any present or future income, excise, stamp or franchise taxes and other taxes, fees, duties, withholdings or other charges of any nature whatsoever imposed by the United Mexican States or any other jurisdiction from which any amount payable hereunder is made, or any taxing authority thereof or therein, unless required by law, excluding, (a) such taxes (including income taxes or franchise taxes) imposed on or measured by the net income or capital of the Lender by the jurisdiction (or any political subdivision thereof) under the laws of which it is organized or maintains a lending office or its principal office or as are imposed on the Lender as a result of a present or former connection between the Lender and the jurisdiction of the governmental authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from the Lender having received a payment hereunder, or enforced, this Promissory Note) and (b) any taxes, levies, imposts, deductions, charges or withholdings to the extent imposed by reason of the Lender's failure to (i) register as a foreign financial institution with the Mexican Ministry of Finance and Public Credit and (ii) be a resident (or have a principal office which is a resident) for tax purposes of a jurisdiction with which Mexico has in effect a treaty for the avoidance of double taxation (but only in respect of those taxes payable in excess of taxes that would have been payable had the Lender complied with those conditions). In the event that the Borrower shall be compelled by law to make any such deduction or withholding in respect of payments hereunder, then the Borrower shall pay such additional amounts as may be necessary so that the holder hereof receives the full amounts it would have received if such deductions or withholdings would not have been made.

Todos los pagos de principal e intereses que se efectúen por el Deudor al amparo del presente, se harán libres de y sin deducción por cualquier impuesto sobre la renta, del timbre o impuesto sobre franquicias y otros impuestos, contribuciones, derechos, retenciones u otras cargas, presentes o futuros, de cualquier naturaleza establecidos por los Estados Unidos Mexicanos o cualquier otra jurisdicción desde la que cualquier suma pagadera conforme al presente sea pagada, o por cualquier autoridad fiscal de los mismos, a menos que la ley requiera lo contrario, excluyendo (a) impuestos (incluyendo impuestos sobre la renta o de franquicia) impuestos o calculados respecto de los ingresos netos o el capital del Acreedor por el país (o subdivisión política del mismo) conforme a las leyes de su constitución o del lugar donde mantenga una oficina de préstamos u oficina principal o que se impongan al Acreedor como resultado de una relación actual o pasada entre el Acreedor y el país de la autoridad gubernamental que imponga dicho impuesto o cualquier subdivisión o autoridad fiscal del mismo (salvo que dicha relación derive exclusivamente de los pagos que el Acreedor reciba al amparo de este Pagaré o de la exigibilidad del mismo) y (b) cualesquier impuestos, cargas, deducciones, cargas o retenciones que se impongan como resultado de que el Acreedor (i) no esté registrado como una institución financiera extranjera ante la Secretaría de Hacienda y Crédito Público y (ii) no sea un residente (o tenga una oficina principal que sea residente) para efectos fiscales de un país con el que México tenga en vigor un tratado para evitar la doble tributación (pero solo con respecto a aquellos impuestos en exceso a los impuestos que hubieran sido pagaderos si el Acreedor hubiera cumplido con dichas condiciones). En caso que el Deudor esté legalmente obligado a llevar a cabo cualquier retención o deducción respecto de pagos conforme al presente, el Deudor pagará las sumas adicionales que sean necesarias para asegurar que las sumas recibidas por el tenedor del presente sean iguales a la suma que hubiera recibido si tales retenciones o deducciones no se hubieren llevado a cabo.

Solely to the extent that the law of the Unites States of Mexico applies, for purposes of Article 128 of the General Law of Negotiable Instruments and Credit Transactions of the United Mexican States, the term of presentment of this Promissory Note is hereby irrevocably extended until June 30, 2011, provided that such extension shall not be deemed to prevent presentment of this Promissory Note prior to such date.

Únicamente en los casos en que la ley de los Estados Unidos Mexicanos aplique, para los efectos del Artículo 128 de la Ley General de Títulos y Operaciones de Crédito de los Estados Unidos Mexicanos, el plazo de presentación de este Pagaré en este acto se amplía irrevocablemente hasta el 30 de junio de 2011, en el entendido que dicha extensión no impedirá la presentación de este Pagaré con anterioridad a dicha fecha.

This Promissory Note shall be governed by, and construed in accordance with, the laws of the United Mexican States.

Este Pagaré se regirá e interpretará de acuerdo con las leyes los Estados Unidos Mexicanos.

Any legal action or proceeding arising out of or relating to this Promissory Note may be brought to the jurisdiction of any federal court sitting in Mexico City, Federal District, United Mexican States, or in the courts of the Borrower's domicile. The Borrower waives the right to jurisdiction of any other courts.

Cualquier acción o procedimiento legal que derive o se relacione con este Pagaré podrá ser instituido en los tribunales en cualquier tribunal federal localizado en la Ciudad de México, Distrito Federal, Estados Unidos Mexicanos, o los tribunales localizados en el domicilio del Deudor. El Deudor renuncia a la jurisdicción de cualesquiera otros tribunales.

The Borrower hereby waives diligence, demand, protest, presentment, notice of dishonor or any other notice or demand whatsoever.

El Deudor en este acto renuncia a diligencia, demanda, protesto, presentación, notificación de no aceptación y a cualquier notificación o demanda de cualquier naturaleza.

This Promissory Note is executed in both English and Spanish versions. In the case of any conflict or doubt as to the proper construction of this Promissory Note, the English version shall govern, provided, however, that in any action or proceeding brought in any court in the United Mexican States, the Spanish version shall prevail.

El presente Pagaré se suscribe en versiones en inglés y español. En caso de conflicto o duda en relación con la debida interpretación de este Pagaré, la versión en inglés prevalecerá, en el entendido, sin embargo, que en cualquier procedimiento iniciado en los Estados Unidos Mexicanos, prevalecerá la versión en español.

IN WITNESS WHEREOF, the Borrower has duly executed this Promissory Note on the date mentioned below.

EN VIRTUD DE LO CUAL, el Deudor ha firmado este Pagaré en la fecha abajo mencionada.

San Pedro Garza García, Nuevo León, Mexico, on January [ ], 2009.

San Pedro Garza García, Nuevo León, México, el [ ] de enero de 2009.

The Borrower / El Deudor

CEMEX, S.A.B. de C.V.

By / Por: [ ]
Name / Nombre: [ ]
Title / Cargo: [ ]
Address / Dirección:
[ ]
[ ]
[ ]

Guaranteed / Por Aval

CEMEX MÉXICO, S.A. de C.V.

By / Por: [ ]
Name / Nombre: [ ]
Title / Cargo: [ ]

CEMEX CONCRETOS, S.A. de C.V.

By / Por: [ ]
Name / Nombre: [ ]
Title / Cargo: [ ]

EXHIBIT A2

EXHIBIT B

FORM OF NOTICE OF BORROWING

BBVA BANCOMER, S.A.
INSTITUCIÓN DE BANCA MÚLTIPLE,
GRUPO FINANCIERO BBVA BANCOMER
as Administrative Agent
[ ]
[ ]
Attention: [ ]

Facsimile number: [ ]

Reference is made to the Credit Agreement, dated as of January [ ], 2009, among CEMEX, S.A.B. de C.V., as Borrower (the "Borrower"), CEMEX México, S.A. de C.V., as Guarantor, CEMEX Concretos, S.A. de C.V., as Guarantor, the several Lenders party thereto, BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Santander Investment Securities Inc., and the Royal Bank of Scotland PLC as Joint Lead Arrangers and Joint Bookrunners, and BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as Administrative Agent (as the same may be amended, supplemented or otherwise modified from time to time, the "Credit Agreement"). Terms used but not otherwise defined herein shall have the meanings provided in the Credit Agreement. To confirm the telephonic Borrowing Request made today pursuant to Section 2.01(c) of the Credit Agreement, the undersigned hereby gives notice pursuant to Section 2.01 of the Credit Agreement of its request for Loans with the following terms:

(A) Requested Disbursement Date _____
(which is a Business Day)

(B) Principal amount of
Tranche A Borrowing _____
(in Dollars) _____

Interest rate basis [LIBOR] [Base Rate]

(C) Principal amount of
Tranche B Borrowing _____
(in Pesos) _____

Interest rate basis: Mexican-Rate

The disbursement shall be paid to the following accounts: [*Details of payments to be provided by Cemex and the Lenders*]

Name of Lender	Amount	Currency	Account Information

The Borrower hereby represents and warrants that each condition specified in Section 4.02 of the Credit Agreement has been satisfied or waived.

EXHIBIT B

IN WITNESS WHEREOF, the undersigned has hereto set his name on this day of , .

CEMEX, S.A.B. de C.V.,
as Borrower

By: _____
Name: _____
Title: _____

EXHIBIT B

EXHIBIT C

FORM OF NOTICE OF EXTENSION/CONVERSION

BBVA BANCOMER,
S.A. INSTITUCIÓN DE BANCA MÚLTIPLE,
GRUPO FINANCIERO BBVA BANCOMER
as Administrative Agent
[ ]
[ ]
Attention: [ ]

Facsimile number: [ ]

Reference is made to the Credit Agreement, dated as of January [ ], 2009, among CEMEX, S.A.B. de C.V., as Borrower (the " Borrower"), CEMEX México, S.A. de C.V., as Guarantor, CEMEX Concretos, S.A. de C.V., as Guarantor, the several Lenders party thereto, BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Santander Investment Securities Inc., and the Royal Bank of Scotland PLC as Joint Lead Arrangers and Joint Bookrunners, and BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as Administrative Agent (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"). Terms used but not otherwise defined herein shall have the meanings provided in the Credit Agreement. The undersigned hereby gives notice pursuant to Section 2.01(e) of the Credit Agreement that it requests an extension or conversion of [a] Tranche A Loan[s] outstanding under the Credit Agreement, and in connection therewith sets forth below the terms on which such extension or conversion is requested to be made:

(A)	Date of [Extension]/ [Conversion] of [LIBOR Loan[s]/Base Rate Loan[s]]	_____
(B)	The [LIBOR Loan[s]/ Base Rate Loan [s]] [Extended]/[Converted] and the principal amount thereof	_____
(C)	Interest rate basis	[LIBOR] [Base Rate]
(D)	Currency	Dollars

The Borrower hereby represents and warrants that the elections made above are made in compliance with Section 2.01(e) of the Credit Agreement.

IN WITNESS WHEREOF, the undersigned has hereto set his name on this day of , .

CEMEX, S.A.B. de C.V.,
as Borrower

By: _____
Name: _____
Title: _____

EXHIBIT C

EXHIBIT D

Assignment and Assumption

This Assignment and Assumption (the "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between [the][each][1] Assignor identified in item 1 below ([the][each, an] "Assignor") and [the][each][2] 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][3] hereunder are several and not joint.][4] 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][each] 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 to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of [the Assignor][the respective Assignors] under the respective tranches identified below (including without limitation any guarantees) 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 [the][any] Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by [the][any] Assignor.

1. Assignor[s]: _____
   _____
2. Assignee[s]: _____
   _____
   [for each Assignee, indicate [Affiliate] of [identify Lender]
3. Borrower(s): CEMEX, S.A.B, de C.V.
4. Administrative Agent: BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as the administrative agent under the Credit Agreement
5. Credit Agreement: The credit agreement dated as of , 2009 among CEMEX, S.A.B. de C.V., as Borrower (the "Borrower"), CEMEX México, S.A. de C.V., as Guarantor, CEMEX Concretos, S.A. de C.V., as Guarantor, the several Lenders party thereto, [Banks], as [Titles] and the Administrative Agent.

[1] 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.

[2] 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.

[3] Select as appropriate.

[4] Include bracketed language if there are either multiple Assignors or multiple Assignees.

6. Assigned Interest[s]

Assignor[s][5]	Assignee[s][6]	Tranche Assigned[7]	Aggregate Amount of [Tranche A/Tranche B-1/Tranche B-2] Commitment/Loans for all Lenders[8]	Amount of [Tranche A/Tranche B-1/Tranche B-2] Commitment/ Loans Assigned[8]	Percentage Assigned of [Tranche A/Tranche B-1/Tranche B-2] Commitment/Loans[9]
			$	$	%
			$	$	%
			$	$	%

[7. Trade Date: _____][10]

Effective Date: , 20 [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

[5] List each Assignor, as appropriate.

[6] List each Assignee, as appropriate.

[7] Fill in the appropriate terminology for the types of tranches under the Credit Agreement that are being assigned under this Assignment (e.g. "Tranche A Commitment/Loan," "Tranche B-1 Commitment/Loan," "Tranche B-2 Commitment/Loan" etc.)

[8] Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

[9] Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

[10] To be completed if the Assignor(s) and the Assignee(s) intend that the minimum assignment amount is to be determined as of the Trade Date.

EXHIBIT D

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR[S][11]
[NAME OF ASSIGNOR]

By: _____
Title:

[NAME OF ASSIGNOR]
By: _____
Title:

ASSIGNEE[S][12]
[NAME OF ASSIGNEE]
By: _____
Title:

[NAME OF ASSIGNEE]
By: _____
Title:

[Consented to and][13]Accepted:

BBVA BANCOMER, S.A.
INSTITUCIÓN DE BANCA MÚLTIPLE,
GRUPO FINANCIERO BBVA BANCOMER,
as Administrative Agent

By: _____
Title:

[Consented to:][14]

CEMEX, S.A.B. de C.V.

By: _____
Title:

[11] Add additional signature blocks as needed.
[12] Add additional signature blocks as needed.
[13] To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.
[14] To be added only if the consent of the Borrower is required by the terms of the Credit Agreement.

Credit agreement dated as of , 2008 among CEMEX, S.A.B. de C.V., as Borrower, CEMEX Mexico, S.A. de C.V., as Guarantor, CEMEX Concretos, S.A. de C.V., as Guarantor, the several Lenders party thereto, [Banks], as [Titles] and BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as the Administrative Agent

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor[sl. [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 and (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 (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 Transaction Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Transaction Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Transaction Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Transaction Document.

1.2. Assignee[s]. [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 13.06(b)of the Credit Agreement (subject to such consents, if any, as may be required under Section 13.06(b)of the Credit Agreement), (iii) 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, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) 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 7.01 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, (vi) 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 (vii) if it is a Foreign Financial Institution, attached to the Assignment and Assumption 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 on 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 Transaction Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Transaction 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. [15]

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.

[15] The Administrative Agent should consider whether this method conforms to its systems. In some circumstances, the following alternative language may be appropriate: "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] Assignee whether such amounts have accrued prior to, on or after the Effective Date. The Assignor[s] and the Assignee[s] shall make all appropriate adjustments in payments by the Administrative Agent for periods prior to the Effective Date or with respect to the making of this assignment directly between themselves."

Exhibit E

January 27, 2009

To the parties listed on Schedule I hereto

Re: CEMEX, S.A.B. de C.V. US$ 437,500,000 and MXP4,773,282,950 Credit Agreement

Ladies and Gentlemen:

We have acted as New York counsel to CEMEX, S.A.B. de C.V., a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States (the "Borrower"), CEMEX México, S.A. de C.V., a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States and CEMEX Concretos, S.A. de C.V., a *sociedad anónima de capital variable* organized and existing pursuant to the laws of the United Mexican States (each, a "Guarantor" and together, the "Guarantors"), in connection with the preparation, execution and delivery of the Credit Agreement, dated as of January 27, 2009 (the "Credit Agreement"), by and among the Borrower, each Guarantor, BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as administrative agent, BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Santander Investment Securities Inc. and The Royal Bank of Scotland PLC as Joint Arrangers and Joint Bookrunners and the several Lenders party thereto, and certain other agreements, instruments and documents related to the Credit Agreement. This opinion is being delivered pursuant to Section 4.01(b)(i) of the Credit Agreement. For purposes of this opinion, the Borrower and the Guarantors are also referred to individually as a "Credit Party" and collectively as the "Credit Parties."

In rendering the opinions set forth herein, we have examined originals or copies of the following:

(a) the Credit Agreement;

(b) the forms of Tranche A Note attached as Exhibit A1 to the Credit Agreement (the "Tranche A Notes");

(c) the certificates of Humberto Francisco Lozano Vargas, Corporate Financing Director of the Borrower and principal financial officer of each Guarantor, attached as Exhibit A hereto, and Lic. Ramiro G. Villarreal Morales, General Counsel to each Credit Party, attached as Exhibit B hereto (together, the "CEMEX Certificates"); and

(d) such other documents as we have deemed necessary or appropriate as a basis for the opinions set forth below.

In our examination, we have assumed the genuineness of all signatures including endorsements, the legal capacity and competency of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. As to any facts relevant to this opinion which we did not independently establish or verify, we have relied upon statements and representations of the Credit Parties and their officers and other representatives and of public officials, including the facts and factual conclusions set forth in the CEMEX Certificates.

We do not express any opinion as to the laws of any jurisdiction other than (i) the Applicable Laws of the State of New York, (ii) the Applicable Laws of the United States of America (including, without limitation, Regulations T, U and X of the Federal Reserve Board), and (iii) solely, for purposes of our opinion in paragraph 6 herein, the Investment Company Act of 1940, as amended. Insofar as the opinions expressed herein relate to matters governed by laws other than those set forth in the preceding sentence, we do not express any opinion as to the effect of such laws or as to the effect thereof on the opinions herein stated.

Capitalized terms used herein and not otherwise defined herein shall have the same meanings herein as ascribed thereto in the Credit Agreement. The Credit Agreement and the Tranche A Notes shall hereinafter be referred to collectively as the "Transaction Agreements." "Applicable Laws" shall mean those laws, rules and regulations which, in our experience, are normally applicable to transactions of the type contemplated by the Credit Agreement (other than the United States federal securities laws, state securities or blue sky laws, antifraud laws and the rules and regulations of the Financial Industry Regulatory Authority), without our having made any special investigation as to the applicability of any specific law, rule or regulation, and which are not the subject of a specific opinion herein referring expressly to a particular law or laws. " Governmental Approval" means any consent, approval, license, authorization or validation of, or filing, recording or registration with, any governmental authority pursuant to the Applicable Laws of the State of New York or the Applicable Laws of the United States of America. "Applicable Orders" means those orders or decrees of governmental authorities identified in the certificate attached as Exhibit B hereto. "Applicable Contracts" mean those agreements or instruments listed on Schedule II hereto. "Uniform Commercial Code" means the Uniform Commercial Code as in effect on the date hereof in the State of New York (without regard to laws referenced in Section 9-201 thereof).

Based upon the foregoing and subject to the limitations, qualifications, exceptions and assumptions set forth herein, we are of the opinion that:

1. The Credit Agreement constitutes the valid and binding obligation of each Credit Party enforceable against such Credit Party in accordance with its terms under the Applicable Laws of the State of New York and the Applicable Laws of the United States of America.

2. The Tranche A Notes, when duly executed and delivered, will constitute the valid and binding obligations of each Credit Party enforceable against each Credit Party in accordance with their terms under the Applicable Laws of the State of New York and the Applicable Laws of the United States of America.

3. The execution and delivery by each Credit Party of each Transaction Agreement and the performance by each Credit Party of its respective obligations thereunder, in accordance with its terms, do not (i) constitute a violation of, or a default under, any Applicable Contract or (ii) cause or require the creation of any security interest upon any property of the Credit Parties pursuant to the Applicable Contracts. We do not express any opinion, however, as to whether the execution, delivery or performance by the Credit Parties of the Transaction Agreements will constitute a violation of, or a default under, any covenant, restriction or provision with respect to financial ratios or tests or any aspect of the financial condition or results of operations of the respective Credit Party. We call to your attention that certain of the Applicable Contracts are governed by laws other than those as to which we express our opinion. We do not express any opinion as to the effect of such other laws on the opinions herein stated.

4. Neither the execution, delivery nor performance by a Credit Party of the Transaction Agreements nor the compliance by such Credit Party with the terms and provisions thereof will contravene any provision of any Applicable Law of the State of New York or any Applicable Law of the United States of America.

5. No Governmental Approval, which has not been obtained or taken and is not in full force and effect, is required to authorize, or is required in connection with, the execution, delivery or performance of any Transaction Agreement by each Credit Party or the enforceability of any Transaction Agreement against the Credit Party.

6. Neither the execution, delivery nor performance by each Credit Party of its respective obligations under the Transaction Agreements nor compliance by such Credit Party with the terms thereof will contravene any Applicable Order to which such Credit Party is subject.

7. Each Credit Party is not, and solely after giving effect to the loans made pursuant to the Transaction Agreement and the application of the loan proceeds thereof will not be, an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.

Our opinions are subject to the following assumptions and qualifications:

(a) the Tranche A Notes will be executed in the form attached as Exhibit A1 to the Credit Agreement;

(b) we do not express any opinion with respect to the enforceability of any provision of the Tranche A Notes governed by the laws of the United Mexican States or of the enforceability of paragraph 16 of each Tranche A Note (relating to Article 128 of the General Law of Negotiable Instruments and Credit Transactions of the United Mexican States) or the effect thereof on the opinions contained herein;

(c) we do not express any opinion with respect to the enforceability of the form of Tranche B Note attached as Exhibit A2 to the Credit Agreement (the "Tranche B Notes"), nor as to whether the Tranche B Notes will constitute the valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms;

(d) enforcement may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium, receivership, conservatorship, or other laws, regulations and administrative orders affecting the rights of creditors of the Credit Parties and by general principles of equity (regardless of whether enforcement is sought in equity or at law);

(e) we have assumed that each Transaction Agreement constitutes the valid and binding obligation of each party to such Transaction Agreement (other than the Credit Parties to the extent expressly set forth herein) enforceable against such other party in accordance with its terms;

(f) we do not express any opinion as to the effect on the opinions expressed herein of (i) the compliance or non-compliance of any party (other than the Credit Parties to the extent expressly set forth herein) to the Transaction Agreements with any state, federal or other laws or regulations applicable to it or (ii) the legal or regulatory status or the nature of the business of any party (other than the Credit Parties to the extent expressly set forth herein);

(g) our opinion is subject to possible judicial action giving effect to governmental actions or foreign laws affecting creditors' rights;

(h) we do not express any opinion as to the enforceability of any rights to contribution or indemnification provided for in the Transaction Agreements which are violative of the public policy underlying any law, rule or regulation (including any federal or state securities law, rule or regulation);

(i) we do not express any opinion with respect to any provision of the Transaction Agreements to the extent it authorizes or permits any purchaser of a participation interest or any branch or agency of a Lender to set-off or apply any deposit, property or indebtedness or the effect thereof on the opinions contained herein;

(j) we do not express any opinion on the enforceability of any provision in the Transaction Agreements purporting to prohibit, restrict or condition the assignment of rights under such Transaction Agreement to the extent such restriction on assignability is ineffective pursuant to the Uniform Commercial Code;

(k) in the case of the guaranty contained in Article IX of the Credit Agreement (the "Guaranty"), certain of the provisions, including waivers, with respect to the Guaranty are or may be unenforceable in whole or in part, but the inclusion of such provisions does not affect the validity of the Guaranty, taken as a whole;

(l) we do not express any opinion as to the enforceability of Section 9.03(b) of the Credit Agreement to the extent that the same provides that the obligations of a Guarantor are absolute and unconditional irrespective of the invalidity or enforceability of the Credit Agreement against such Guarantor, but the existence of such provisions does not affect the validity of the Guaranty;

(m) with respect to the enforceability of all obligations under the Transaction Agreements, we note that a U.S. federal court would award a judgment only in U.S. dollars and that a judgment of a court in the State of New York rendered in a currency other than the U.S. dollar would be converted into U.S. dollars at the rate of exchange prevailing on the date of entry of such judgment; further, we do not express any opinion as to the enforceability of the provisions of the Transaction Agreements providing for indemnity by any party thereto against any loss in obtaining the currency due to such party under the Transaction Agreements from a court judgment in a currency other than the U.S. dollar;

(n) we do not express any opinion as to the enforceability of any section of the Transaction Agreements to the extent it purports to waive any objection a person may have that a suit, action or proceeding has been brought in an inconvenient forum or a forum lacking subject matter jurisdiction;

(o) to the extent that any opinion relates to the enforceability of the choice of New York law and choice of New York forum provisions of the Transaction Agreements, our opinion is rendered in reliance upon N.Y. Gen. Oblig. Law §§ 5-1401, 5-1402 (McKinney 2001) and N.Y. CPLR 327(b) (McKinney 2001) and is subject to the qualifications that such enforceability may be limited by public policy considerations of any jurisdiction, other than the courts of the State of New York, in which enforcement of such provisions, or of a judgment upon an agreement containing such provisions, is sought;

(p) in rendering the opinions expressed above we have also assumed, without independent investigation or verification of any kind, that the choice of New York law to govern the Transaction Agreements, which is stated therein to be governed thereby, is legal and valid under the laws of other applicable jurisdictions and that insofar as any obligation under the Transaction Agreements is to be performed in any jurisdiction outside the United States of America its performance will not be illegal or ineffective by virtue of the law of that jurisdiction;

(q) we call to your attention that federal courts of the United States of America located in New York could decline to hear a case on grounds of forum non-conveniens or any other doctrine limiting the availability of such courts in New York as a forum for the resolution of disputes not having a sufficient nexus to New York, irrespective of any agreement between the parties;

(r) we do not express any opinion as to the subject matter jurisdiction of the federal courts of the United States of America in any action arising out of or relating to the Transaction Agreements;

(s) in rendering the opinions expressed above, we note that the various obligations of the Credit Parties in respect of the Transaction Agreements implicate the laws of the United Mexican States and, accordingly, such obligations may be affected by such laws, as to which we do not express any opinion; and

(t) in rendering the opinion expressed in paragraph 4 herein, we assume that any issuance and resale of securities in satisfaction of the obligation set forth in Section 2.01(h)(ii) of the Credit Agreement will be structured so as to be exempt from registration under United States federal and state securities law.

In rendering the foregoing opinions, we have assumed, with your consent, that:

(a) the Borrower is validly existing and in good standing as a *sociedad anónima bursátil de capital variable* under the laws of the United Mexican States; and each Guarantor is validly existing and in good standing as a *sociedad anónima de capital variable* under the laws of the United Mexican States;

(b) each Credit Party has the power and authority to execute, deliver and perform all obligations under each Transaction Agreement, and the execution and delivery of each Transaction Agreement and the consummation by such Credit Party of the transactions contemplated thereby have been duly authorized by all requisite action on the part of such Credit Party, and each Transaction Agreement has been duly executed and delivered by each Credit Party party thereto;

(c) the execution, delivery and performance by each Credit Party of any such Credit Party's obligations under each Transaction Agreement do not and will not conflict with, contravene, violate or constitute a default under (i) the organizational documents of such Credit Party, (ii) any lease, indenture, instrument or other agreement to which such Credit Party or such Credit Party's property is subject (other than the Applicable Contracts as to which we express our opinion in paragraph 3 herein), (iii) any rule, law or regulation to which such Credit Party is subject (other than Applicable Laws of the State of New York and Applicable Laws of the United States of America as to which we express our opinion in paragraph 4 herein) or (iv) any judicial or administrative order or decree of any governmental authority (other than Applicable Orders as to which we express our opinion in paragraph 6 herein); and

(d) no authorization, consent or other approval of, notice to or filing with any court, governmental authority or regulatory body (other than Governmental Approvals as to which we express our opinion in paragraph 5 herein) is required to authorize or is required in connection with the execution and delivery by or enforceability against each Credit Party of any Transaction Agreement or the transactions contemplated thereby.

We understand that you are separately receiving opinions, with respect to certain of the foregoing assumptions from Lic. Ramiro G. Villarreal Morales, General Counsel of each Credit Party, and we are advised that such opinions contain qualifications. Our opinions herein stated are based on the assumptions specified above, and we do not express any opinion as to the effect on the opinions herein stated of the qualifications contained in such other opinions.

This opinion is being furnished only to you in connection with the Transaction Agreements and is solely for your benefit and is not to be used, circulated, quoted or otherwise referred to for any other purpose or relied upon by any other person or entity for any purpose without our prior written consent; *provided that* (i) Lic. Ramiro G. Villarreal Morales may rely upon this opinion as to matters of the laws of the State of New York and of the United States of America and in rendering his opinions in connection with the Transaction Agreements; (ii) any Person who becomes a Lender under Section 13.06(b) of the Credit Agreement after the date hereof may rely on this opinion as if it were originally addressed to such Lender and delivered on the date hereof; and (iii) this opinion may be disclosed by a Lender to any Person that is a potential transferee or assignee of such Lender, but such Person shall not rely upon this opinion unless and until it becomes a Lender under Section 13.06(b) of the Credit Agreement and in such case clause (ii) above shall apply. We do not assume any obligation to revise or supplement this opinion letter should any factual matters change or other transactions occur or should any laws or regulations be changed by legislative or regulatory action, judicial decision or otherwise.

Very truly yours,

Exhibit E

The following parties:

BBVA BANCOMER, S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BBVA BANCOMER, as Administrative Agent;

BBVA BANCOMER, S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BBVA BANCOMER, as Joint Arranger and Joint Bookrunner;

CITIGROUP GLOBAL MARKETS INC., as Joint Arranger and Joint Bookrunner;

HSBC SECURITIES (USA) INC., as Joint Arranger and Joint Bookrunner;

SANTANDER INVESTMENT SECURITIES INC., as Joint Arranger and Joint Bookrunner;

THE ROYAL BANK OF SCOTLAND PLC, as Joint Arranger and Joint Bookrunner; and

EACH LENDER as of the date hereof.

Applicable Contracts

(1) Indenture, dated as of October 1, 1999, among CEMEX, S.A.B. de C.V. (formerly, CEMEX, S.A. de C.V.) ("CEMEX"), as issuer, CEMEX México, S.A. de C.V. (formerly, Serto Construcciones, S.A. de C.V. and successor guarantor to TOLMEX, S.A. de C.V., Cemento Portland Nacional, S.A. de C.V., and Cementos Mexicanos, S.A. de C.V.) ("CEMEX México") and Empresas Tolteca de México, S.A. de C.V. ("Empresas Tolteca"), as guarantors, and U.S. Bank Trust National Association, as trustee, relating to U.S.$200,000,000 original aggregate principal amount of 9.625% Notes due 2009 of CEMEX, as amended by the First Supplemental Indenture, dated as of April 17, 2002, the Second Supplemental Indenture, dated as of October 4, 2004, and the Third Supplemental Indenture, dated as of October 20, 2006.

(2) Credit Agreement, dated as of May 31, 2005, by and among CEMEX, as borrower, CEMEX México and Empresas Tolteca, as guarantors, the several lenders party thereto, Barclays Bank PLC, New York Branch, as administrative agent, Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner, for an aggregate principal amount of U.S.$1,200,000,000, as amended by Amendment No. 1 thereto, dated as of June 19, 2006, the Amendment and Waiver Agreement, dated as of November 30, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Limited Waiver Agreement, dated as of November 30, 2007, the Fourth Amendment to Credit Agreement, dated as of December 19, 2008 and the Fifth Amendment to Credit Agreement, dated as of January 22, 2009.

(3) Amended and Restated Credit Agreement, dated as of June 6, 2005, by and among CEMEX, as borrower, CEMEX México and Empresas Tolteca, as guarantors, Barclays Bank PLC, New York Branch, as issuing bank and documentation agent, ING Bank N.V., as issuing bank, the several lenders party thereto, and Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint bookrunner, Citigroup Global Markets Inc., as joint bookrunner and syndication agent, and ING Capital LLC, as joint bookrunner and administrative agent, for an aggregate principal amount of U.S.$700,000,000, as amended by Amendment No. 1. dated as of June 21, 2006, the Amendment and Waiver Agreement, dated as of December 1, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Waiver Agreement, dated as of November 30, 2007, the Fourth Amendment to Credit Agreement, dated as of December 19, 2008 and the Fifth Amendment to Credit Agreement, dated as of January 22, 2009.

(4) U.S.$700,000,000 Amended and Restated Facilities Agreement, dated as of December 19, 2008, for New Sunward Holding B.V. (" NSH") as borrower, CEMEX, CEMEX Mexico and Empresas Tolteca as guarantors and Citibank, N.A. as agent, and the Amendment dated as of January 23, 2009.

(5) Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of U.S. $900,000,000 Callable Perpetual Dual-Currency Notes, with The Bank of New York as Trustee.

(6) Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of U.S. $350,000,000 Callable Perpetual Dual-Currency Notes, with The Bank of New York as Trustee.

(7) Note Indenture, dated as of February 12, 2007, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of U.S. $750,000,000 Callable Perpetual Dual-Currency Notes, with The Bank of New York as Trustee.

(8) Note Indenture, dated as of May 9, 2007, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of €730,000,000 Callable Perpetual Dual-Currency Notes, with The Bank of New York as Trustee.

(9) Senior Unsecured Maturity Loan "A" Agreement, dated as of December 19, 2008, by and among NSH, CEMEX, CEMEX México, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto for an aggregate principal amount of U.S. $525,000,000, and the First Amendment to Maturity Loan "A" Agreement, dated as of January 22, 2009.

(10) Senior Unsecured Maturity Loan "B" Agreement, dated as of December 19, 2008, by and among NSH, CEMEX, CEMEX México, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto for an aggregate principal amount of U.S. $525,000,000, and the First Amendment to Maturity Loan "B" Agreement, dated as of January 22, 2009.

(11) Credit Agreement, dated as of June 25, 2008, among CEMEX, as borrower, CEMEX México, as guarantor, and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch as lender for an aggregate principal amount of US $500,000,000 as amended by First Amendment to Credit Agreement, dated as of December 19, 2008 and Second Amendment to Credit Agreement, dated as of January 22, 2009.

[ATTACHED SEPARATELY]

[ATTACHED SEPARATELY]

Exhibit F to the
Opinion of Special Counsel

CEMEX, S.A.B. de C.V.
Officer's Certificate
January 27, 2009

I, Humberto Francisco Lozano Vargas, am the duly elected, qualified and acting Corporate Financing Director of CEMEX, S.A.B. de C.V. ("CEMEX"), a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States ("Mexico"), and the principal financial officer (referred to herein as the "Chief Financial Officer") of its subsidiaries CEMEX México, S.A. de C.V. ("CEMEX México"), a *sociedad anonima de capital variable* organized and existing pursuant to the laws of Mexico and CEMEX Concretos S.A. de C.V. ("CEMEX Concretos"), a *sociedad anonima de capital variable* organized and existing pursuant to the laws of Mexico. I understand that pursuant to Section 4.01(b)(i) of the Credit Agreement, dated as of the date hereof (the "Credit Agreement"), by and among CEMEX as borrower, CEMEX Mexico and CEMEX Concretos, as guarantors, the several Lenders party thereto, as lenders, BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as administrative agent, and BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as administrative agent, BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Santander Investment Securities Inc. and The Royal Bank of Scotland PLC as Joint Arrangers and Joint Bookrunners, that Skadden, Arps, Slate, Meagher & Flom LLP ("SASM&F") is rendering an opinion (the "Opinion") to the Administrative Agent and the Lenders listed on Schedule I to the Opinion. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings assigned to those terms in the Opinion. I further understand that SASM&F is relying on this officer's certificate and the statements made herein in rendering such Opinion.

With regard to the foregoing, on behalf of the Credit Parties, I hereby certify that:

(a) I am familiar with the business of the Credit Parties and their subsidiaries, and due inquiry has been made of all persons, including persons in the office of the General Counsel, deemed necessary or appropriate to verify or confirm the statements contained herein.

(b) SASM&F may rely on the respective representations and warranties that the Credit Parties have made in the Credit Agreement, each other Transaction Document and each of the certificates delivered pursuant thereto. I have made a careful review of each of such representations and warranties and hereby confirm, to the best of my knowledge and belief, that such representations and warranties are true, correct and complete on and as of the date of this certificate.

(c) The execution and delivery by each Credit Party of the Transaction Documents to which it is a party and the performance by each Credit Party of their respective obligations thereunder, each in accordance with its terms, do not (i) constitute a violation of, or a default under, any agreement or instrument to which any Credit Party is a party or by which any Credit Party is bound or (ii) cause the creation of any security interest upon any property of the Credit Parties pursuant to any agreement or instrument to which any Credit Party is a party or by which any Credit Party is bound.

(d) Less than twenty-five percent (25%) of the assets of each Credit Party and its subsidiaries on a consolidated basis and on an unconsolidated basis consist of Margin Stock.

(e) Each Credit Party is primarily engaged directly, or indirectly through Majority-Owned Subsidiaries, in the business of producing, distributing, marketing and selling cement, ready-mix concrete and/or clinker; and each Credit Party (i) is not and does not hold itself out as being engaged primarily, nor does it propose to engage primarily, in the business of investing, reinvesting or trading in Securities, (ii) has not and is not engaged in, and does not propose to engage in, the business of issuing face-Amount Certificates of the Installment Type and has no such certificate outstanding and (iii) does not own or propose to acquire Investment Securities having a Value exceeding forty percent (40%) of the Value of the total assets of the respective Credit Party (exclusive of Government Securities and cash items) on an unconsolidated basis.

(f) Each Credit Party does not own or operate facilities used for the generation, transmission, or distribution of electric energy for sale (" Electric Utility Facilities").

(g) Each Credit Party does not own or operate facilities used for the distribution of natural or manufactured gas for heat, light, or power (" Gas Utility Facilities").

(h) None of the Credit Parties or any of their subsidiaries, directly or indirectly, or through one or more intermediary Companies, owns, controls, or holds with power to vote (a) ten percent (10%) or more of the outstanding Voting Securities of any Company that owns or operates any Electric Utility Facilities or Gas Utility Facilities, or (b) any other interest, directly or indirectly, or through one or more intermediary entities, in (i) any Company that owns or operates any Electric Utility Facilities or Gas Utility Facilities, or (ii) any of the foregoing types of entities that have received notice of the sort described in paragraph 9 below.

(i) As used in paragraph (d) of this certificate, the following terms shall have the following meanings:

"Margin Stock" means: (i) any equity security registered or having unlisted trading privileges on a national securities exchange; (ii) any OTC security designated as qualified for trading in the National Market System under a designation plan approved by the Securities and Exchange Commission; (iii) any debt security convertible into a margin stock or carrying a warrant or right to subscribe to or purchase a margin stock; (iv) any warrant or right to subscribe to or purchase a margin stock; or (v) any security issued by an investment company registered under Section 8 of the Investment Company Act of 1940.

Exhibit F

(j) As used in paragraphs (e) and (j) of this certificate, the following term shall have the following meaning:

"Exempt Fund" means a company that is excluded from treatment as an investment company solely by section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940 (applicable to certain privately offered investment funds).

"Face-Amount Certificate of the Installment Type" means any certificate, investment contract, or other Security that represents an obligation on the part of its issuer to pay a stated or determinable sum or sums at a fixed or determinable date or dates more than 24 months after the date of issuance, in consideration of the payment of periodic installments of a stated or determinable amount.

"Government Securities" means all Securities issued or guaranteed as to principal or interest by the United States, or by a person controlled or supervised by and acting as an instrumentality of the government of the United States pursuant to authority granted by the Congress of the United States; or any certificate of deposit for any of the foregoing.

"Investment Securities" includes all Securities except (A) Government Securities, (B) Securities issued by companies the only shareholders in which are employees and former employees of a company and its subsidiaries, members of the families of such persons and the company and its subsidiaries and (C) Securities issued by Majority-Owned Subsidiaries of the respective Credit Party which are not engaged and do not propose to be engaged in activities within the scope of clause (i), (ii) or (iii) of paragraph (e) of this Certificate or which are exempted or excepted from treatment as an investment company by statute, rule or governmental order (other than Exempt Funds).

"Majority-Owned Subsidiary" of a person means a company 50% or more of the outstanding Voting Securities of which are owned by such person, or by a company which, within the meaning of this paragraph, is a Majority-Owned Subsidiary of such person.

"Security" or "Securities" means any note, stock, treasury stock, security future, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferrable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security (including a certificate of deposit) or on any group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"Value" means (i) with respect to Securities owned at the end of the last preceding fiscal quarter for which market quotations are readily available, the market value at the end of such quarter; (ii) with respect to other Securities and assets owned at the end of the last preceding fiscal quarter, fair value at the end of such quarter, as determined in good faith by or under the direction of the board of directors; and (iii) with respect to securities and other assets acquired after the end of the last preceding fiscal quarter, the cost thereof.

Exhibit F

"Voting Security" means any security presently entitling the owner or holder thereof to vote for the election of directors of a company (or its equivalent, *e.g.,* general partner, manager of a limited liability company, etc.).

(k) As used in paragraphs (h) and (k) of this certificate, the following terms shall have the following meanings:

"Company" or "Companies" means a corporation, limited liability company, partnership, association, joint-stock company, joint venture, trust, or any receiver, trustee, or other liquidating agent of any of the foregoing in its capacity as such.

"Security" or "Securities" means any note, draft, stock, treasury stock, bond, debenture, limited liability company interest, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, other mineral royalty or lease, any collateral-trust certificate, reorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, receiver's or trustee's certificate, or, in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guaranty of, assumption of liability on, or warrant or right to subscribe to or purchase, any of the foregoing.

"Voting Security" or "Voting Securities" means any Security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a Company, or any Security issued under or pursuant to any trust, agreement, or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such Security are presently entitled to vote in the direction or management of the affairs of a Company; and a specified per centum of the outstanding Voting Securities of a Company means such amount of the outstanding Voting Securities of such Company as entitles the holder or holders thereof to cast said specified per centum of the aggregate votes which the holders of all the outstanding Voting Securities of such Company are entitled to cast in the direction or management of the affairs of such Company.

(l) No Credit Party is organized and existing under the laws of the United States of America.

(m) Reference is hereby made to Section 8.07 of the U.S.$ 1,200,000,000 Credit Agreement, Section 9.07 of the U.S.$ 700,000,000 Credit Agreement, Section 21.26(a) of the NSH U.S.$ 700,000,000 Credit Agreement, Section 8.07 of each of the Maturity Loan "A" Agreement and the Maturity Loan "B" Agreement and Section 8.07 of the BBVA (PEZ) Agreement. The weighted average life to maturity of the Loans under the Credit Agreement will not be less than the remaining weighted average life to maturity of the Debt under the Existing Bilateral Facilities (as defined in the Credit Agreement) and the Borrower will apply the proceeds of the Loans to the repayment, prepayment or other discharge of the Existing Bilateral Facilities within fifteen days of the Incurrence of the Debt constituting the Loans.

IN WITNESS THEREOF, I have executed this certificate on the date first mentioned above.

By: _____
Name: Humberto Francisco Lozano Vargas
Title: Corporate Financing Director

[SIGNATURE PAGE – CFD OPINION CERTIFICATE TO SASMF OPINION TO JOINT BILATERAL FACILITY AGREEMENT]

Exhibit B to the
Opinion of Special Counsel

CEMEX, S.A.B. de C.V.
Officer's Certificate
January 27, 2009

I, Ramiro G. Villarreal Morales, am the duly elected, qualified and acting General Counsel of CEMEX, S.A.B. de C.V. ("CEMEX"), a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States ("Mexico"), and of its subsidiaries CEMEX México, S.A. de C.V. ("CEMEX México"), a *sociedad anonima de capital variable* organized and existing pursuant to the laws of Mexico and CEMEX Concretos S.A. de C.V. ("CEMEX Concretos"), a *sociedad anonima de capital variable* organized and existing pursuant to the laws of Mexico. I understand that pursuant to Section 4.01(b)(i) of the Credit Agreement, dated as of the date hereof (the "Credit Agreement"), by and among CEMEX as borrower, CEMEX Mexico and CEMEX Concretos as guarantors, the several Lenders party thereto, as lenders, BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as administrative agent, and BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as administrative agent, BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Santander Investment Securities Inc. and The Royal Bank of Scotland PLC as Joint Arrangers and Joint Bookrunners, that Skadden, Arps, Slate, Meagher & Flom LLP ("SASM&F") is rendering an opinion (the "Opinion") to the Administrative Agent and the Lenders listed on Schedule I to the Opinion. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings assigned to those terms in the Opinion. I further understand that SASM&F is relying on this officer's certificate and the statements made herein in rendering such Opinion.

With regard to the foregoing, on behalf of the Credit Parties, I hereby certify that:

(a) There is no order of any court or governmental agency or body of the United States of America or the State of New York, in any such case, having jurisdiction over any Credit Party, any of its Subsidiaries or any of its properties that is material to the business or financial condition of such Credit Party and its Subsidiaries, taken as a whole, or that is relevant to the transactions contemplated by the Transaction Documents.

(b) No Governmental Approvals are applicable to any Credit Party that are material to the business or financial condition of the Credit Parties, taken as a whole, or that are relevant to the transactions contemplated by the Transaction Documents.

(c) The agreements listed on Schedule I hereto constitute, on and as of the date of this Certificate, all the material agreements to which the Borrower or either Guarantor is a party or which are binding on the Borrower or either Guarantor that are applicable to transactions of the type contemplated by the Credit Agreement. Except as set forth on Schedule I, such agreements have not been amended, supplemented, or otherwise modified as of the date of this Certificate, except for amendments, supplements or other modifications that are not material. In those cases where an execution version or an agreement has not been provided to you, the version listed is in exactly the same format as the execution version.

IN WITNESS THEREOF, I have executed this certificate on the date first mentioned above.

By: _____
Name: Ramiro G. Villarreal Morales
Title: General Counsel

[SIGNATURE PAGE – GENERAL COUNSEL OPINION CERTIFICATE TO SASMF OPINION TO JOINT BILATERAL FACILITY AGREEMENT]

Applicable Contracts

(12) Indenture, dated as of October 1, 1999, among CEMEX, S.A.B. de C.V. (formerly, CEMEX, S.A. de C.V.) ("CEMEX"), as issuer, CEMEX México, S.A. de C.V. (formerly, Serto Construcciones, S.A. de C.V. and successor guarantor to TOLMEX, S.A. de C.V., Cemento Portland Nacional, S.A. de C.V., and Cementos Mexicanos, S.A. de C.V.) ("CEMEX México") and Empresas Tolteca de México, S.A. de C.V. ("Empresas Tolteca"), as guarantors, and U.S. Bank Trust National Association, as trustee, relating to U.S.$200,000,000 original aggregate principal amount of 9.625% Notes due 2009 of CEMEX, as amended by the First Supplemental Indenture, dated as of April 17, 2002, the Second Supplemental Indenture, dated as of October 4, 2004, and the Third Supplemental Indenture, dated as of October 20, 2006.

(13) Credit Agreement, dated as of May 31, 2005, by and among CEMEX, as borrower, CEMEX México and Empresas Tolteca, as guarantors, the several lenders party thereto, Barclays Bank PLC, New York Branch, as administrative agent, Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner, for an aggregate principal amount of U.S.$1,200,000,000, as amended by Amendment No. 1 thereto, dated as of June 19, 2006, the Amendment and Waiver Agreement, dated as of November 30, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Limited Waiver Agreement, dated as of November 30, 2007, the Fourth Amendment to Credit Agreement, dated as of December 19, 2008 and the Fifth Amendment to Credit Agreement, dated as of January 22, 2009 (as so amended, the " U.S.$ 1,200,000,000 Credit Agreement ").

(14) Amended and Restated Credit Agreement, dated as of June 6, 2005, by and among CEMEX, as borrower, CEMEX México and Empresas Tolteca, as guarantors, Barclays Bank PLC, New York Branch, as issuing bank and documentation agent, ING Bank N.V., as issuing bank, the several lenders party thereto, and Barclays Capital, The Investment Banking Division of Barclays Bank PLC, as joint bookrunner, Citigroup Global Markets Inc., as joint bookrunner and syndication agent, and ING Capital LLC, as joint bookrunner and administrative agent, for an aggregate principal amount of U.S.$700,000,000, as amended by Amendment No. 1 thereto, dated as of June 21, 2006, the Amendment and Waiver Agreement, dated as of December 1, 2006, the Third Amendment to Credit Agreement, dated as of May 9, 2007, the Waiver Agreement, dated as of November 30, 2007, the Fourth Amendment to Credit Agreement, dated as of December 19, 2008 and the Fifth Amendment to Credit Agreement, dated as of January 22, 2009 (as so amended, the "U.S.$ 700,000,000 Credit Agreement").

(15) U.S.$700,000,000 Amended and Restated Facilities Agreement*, dated as of December 19, 2008, for New Sunward Holding B.V. (" NSH") as borrower, CEMEX, CEMEX Mexico and Empresas Tolteca as guarantors and Citibank, N.A. as agent, and the Amendment Agreement dated as of January 23, 2009 (as so amended, the "NSH U.S.$ 700,000,000 Credit Agreement ").

(16) Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of U.S. $900,000,000 Callable Perpetual Dual-Currency Notes, with The Bank of New York as Trustee.

(17) Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of U.S. $350,000,000 Callable Perpetual Dual-Currency Notes, with The Bank of New York as Trustee.

(18) Note Indenture, dated as of February 12, 2007, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of U.S. $750,000,000 Callable Perpetual Dual-Currency Notes, with The Bank of New York as Trustee.

(19) Note Indenture, dated as of May 9, 2007, among New Sunward Holding Financial Ventures B.V. and CEMEX, CEMEX México and NSH with respect to the issuance of €730,000,000 Callable Perpetual Dual-Currency Notes, with The Bank of New York as Trustee.

(20) Senior Unsecured Maturity Loan "A" Agreement, dated as of December 19, 2008, by and among NSH, CEMEX, CEMEX México, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto for an aggregate principal amount of U.S. $525,000,000, and the First Amendment to Maturity Loan "A" Agreement, dated as of January 22, 2009 (as so amended, the " Maturity Loan "A" Agreement").

(21) Senior Unsecured Maturity Loan "B" Agreement, dated as of December 19, 2008, by and among NSH, CEMEX, CEMEX México, HSBC Securities (USA) Inc., as sole structuring agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland Plc, each as joint lead arranger and joint bookrunner, ING Capital LLC, as administrative agent, and the several lenders party thereto for an aggregate principal amount of U.S. $525,000,000, and the First Amendment to Maturity Loan "B" Agreement, dated as of January 22, 2009 (as so amended, the " Maturity Loan "B" Agreement").

(22) Credit Agreement, dated as of June 25, 2008, among CEMEX, as borrower, CEMEX México, as guarantor, and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch as lender for an aggregate principal amount of US $500,000,000 as amended by First Amendment to Credit Agreement, dated as of December 19, 2008 and Second Amendment to Credit Agreement, dated as of January 22, 2009 (as so amended, the " BBVA (PEZ) Agreement").

* The Facilities Agreement referred to in Item 4 is governed by English law.

EXHIBIT 4.29

CONFORMED COPY

US$617,500,000 AND €587,500,000

FACILITIES AGREEMENT

dated 27 JANUARY 2009

for
CEMEX ESPAÑA, S.A.
as Borrower

with

CEMEX AUSTRALIA HOLDINGS PTY LIMITED
and
CEMEX, INC
as Original Guarantors

BANCO SANTANDER, S.A.

and

THE ROYAL BANK OF SCOTLAND PLC
as Documentation Agents

with

THE ROYAL BANK OF SCOTLAND PLC
acting as Facility Agent

FACILITIES AGREEMENT

TABLE OF CONTENTS

THIS FACILITIES AGREEMENT (the "**Agreement**") is dated 27 January 2009 and made

BETWEEN:

(1) **CEMEX ESPAÑA, S.A**. as referred to in Part I of Schedule 1 (*The Obligors*) (the "**Original Borrower**" or the "**Company**");

(2) **THE COMPANIES** referred to in Part I of Schedule 1 (*The Obligors*) as Original Guarantors (the "**Original Guarantors**");

(3) **BANCO SANTANDER, S.A.** and **THE ROYAL BANK OF SCOTLAND PLC** as co-ordinators (acting whether individually or together the "**Documentation Agent**");

(4) **THE FINANCIAL INSTITUTIONS** listed in Part II of Schedule 1 (*The Original Lenders*) as lenders (the "**Original Lenders**"); and

(5) **THE ROYAL BANK OF SCOTLAND PLC** as agent of the other Finance Parties (the "**Facility Agent**").

IT IS AGREED as follows:

SECTION 1
INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**2009 Facility A Repayment Instalment**" has the meaning given to such term in Clause 6.2 (*Repayment of Facility B Loans*).

"**2009 Facility B Repayment Instalment**" has the meaning given to such term in Clause 6.2 (*Repayment of Facility B Loans*).

"**2009 Repayment Instalments**" means the 2009 Facility A Repayment Instalment and the 2009 Facility B Repayment Instalment.

"**2010 Facility A Repayment Instalments**" has the meaning given to such term in Clause 6.2 (*Repayment of Facility B Loans*).

"**2010 Facility B Repayment Instalments**" has the meaning given to such term in Clause 6.2 (*Repayment of Facility B Loans*).

"**2010 Repayment Instalments**" means the 2010 Facility A Repayment Instalments and the 2010 Facility B Repayment Instalments.

"**Accession Letter**" means a document substantially in the form set out in Schedule 6 (*Form of Accession Letter*).

"**Additional Cost Rate**" has the meaning given to it in paragraph 2 of Schedule 4 (*Mandatory Cost Formulae*).

"**Additional Borrower**" means a company which becomes an Additional Borrower in accordance with Clause 25 (*Changes to the Obligors*).

"**Additional Guarantor**" means a company which becomes an Additional Guarantor in accordance with Clause 25 (*Changes to the Obligors*).

"**Additional Obligor**" means an Additional Borrower or an Additional Guarantor.

"**Affiliate**" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"**Agent's Spot Rate of Exchange**" means the Facility Agent's spot rate of exchange for the purchase of one currency with the relevant other currency in the London foreign exchange market as of 11:00 a.m. on a particular day.

"**Assignment Agreement**" means an assignment agreement in the form agreed between the relevant assignor and assignee and approved by the Facility Agent.

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Authorised Signatory**" means, in relation to any Obligor, any person who is duly authorised and in respect of whom the Facility Agent has received a certificate signed by a director or another Authorised Signatory of such Obligor setting out the name and signature of such person and confirming such person's authority to act.

"**Availability Period**" means the period from and including the Effective Date to and including the date falling 30 Business Days thereafter.

"**Available Commitment**" means, in relation to a Facility, a Lender's Commitment under that Facility minus:

(a) the amount of its participation in any outstanding Utilisations under that Facility; and

(b) in relation to any proposed Utilisation, the amount of its participation in any other Utilisations that are due to be made under that Facility on or before the proposed Utilisation Date.

"**Available Facility**" means, in relation to a Facility, the aggregate for the time being of each Lender's Available Commitment in respect of that Facility.

"**Borrowers**" means the Original Borrower and any Additional Borrower unless, in each case, such entity has ceased to be a Borrower in accordance with Clause 25 (*Changes to the Obligors*) and "**Borrower**" means any of them.

"**Break Costs**" means the amount (if any) by which:

(a) the interest (excluding the applicable Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

(b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the day of receipt or recovery if a Business Day and if received or recovered before 2 p.m. London time on that day (or, if not, on the Business Day following receipt or recovery) and ending on the last day of the current Interest Period.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Madrid and New York, and:

(a) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, a currency other than euro) the principal financial centre of the country of that currency; or

(b) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, euro) any TARGET Day.

"**Capital Lease**" means any lease that is capitalised on the balance sheet of the Company prepared in accordance with Spanish GAAP.

"**CEMEX Australia**" means CEMEX Australia Holdings Pty Limited, a company incorporated under the laws of Australia with ABN 46 122 401 405.

"**CEMEX Group**" means CEMEX Parent and each of its Subsidiaries from time to time.

"**CEMEX Parent**" means CEMEX, S.A.B. de C.V., a company (*sociedad anónima bursátil de capital variable*) incorporated in Mexico.

"**CEMEX UK**" means CEMEX UK, a Subsidiary of the Company incorporated in England and Wales with company number 05196131 and having its registered office at CEMEX House, Coldharbour Lane, Thorpe, Egham, Surrey TW20 8TD.

"**CO_2 Emission Rights**" means any emission rights or allowance allocated to a member of the Group to emit one tonne of carbon dioxide equivalent (as defined in the Directive) during a specified period which is valid and/or transferable under the Directive and any other type of allowance recognised by the Directive in connection with the Kyoto Protocol on climate change.

"**Commitment**" means a Facility A Commitment and/or a Facility B Commitment.

"**Compliance Certificate**" means a certificate substantially in the form set out in Schedule 7 (*Form of Compliance Certificate*).

"**Confidentiality Undertaking**" means a confidentiality undertaking substantially in the form set out in Schedule 9 (*Form of Confidentiality Undertaking*) or in any other form agreed between the Company and the Facility Agent.

"**Default**" means an Event of Default or any event or circumstance specified in Clause 23 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"**Directive**" means Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the European Community (as amended by Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 and as further amended from time to time).

"**Discharged Rights and Obligations**" has the meaning given to such term in Clause 24.5 (*Procedure for transfer*).

"**Domestic Lender**" means any Spanish resident credit entity registered in the Special Registries of The Bank of Spain as defined in article 8 of Royal Legislative Decree 4/2004 of 5 March and mentioned in paragraph (c) of Article 59 of Corporate Income Tax Regulations approved by Royal Decree 1777/2004 of 30 July (Real Decreto 1777/2004 de 30 de julio) or a permanent establishment of a non-Spanish resident financial entity as defined in article 13.1.a of Royal Legislative Decree 5/2004 of 5 March and mentioned in the second paragraph of Article 8.1 of Non-Resident Income Tax Regulations approved by Royal Decree 1776/2004 of 30 July (Real Decreto 1776/2004 de 30 julio).

"**Effective Date**" means the date on which the Facility Agent notifies the Company and the Lenders that it has received all of the documents and the evidence listed in Part I of Schedule 2 (*Conditions Precedent*) in accordance with Clause 4.1 (*Initial Conditions Precedent*).

"**Environmental Claim**" means any claim, proceeding or investigation by any person in respect of any Environmental Law.

"**Environmental Law**" means any applicable law or regulation in any jurisdiction in which any member of the Group conducts business which relates to the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants.

"**Environmental Permits**" means any permit, licence, consent, approval and other authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any member of the Group conducted on or from the properties owned or used by the relevant member of the Group.

"**ERISA**" means the United States Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

"**EURIBOR**" means, in relation to any Loan in euro:

(a) the applicable Screen Rate; or

(b) (if no Screen Rate is available for the Interest Period of that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request quoted by the Reference Banks to leading banks in the European interbank market, as of the Specified Time on the Quotation Day for the offering of deposits in euro for a period comparable to the Interest Period of the relevant Loan.

"**Event of Default**" means any event or circumstance specified as such in Clause 23 (*Events of Default*).

"**Existing Bilateral Debt**" means the bilateral facilities and other debt listed in Schedule 12 (*Existing Bilateral Debt*).

"**Extended Termination Date**" has the meaning given to such term in Clause 7.2 (*Acceptance of Extension Request*).

"**Extension Option**" means the extension option described in Clause 7 (*Extension Option*).

"**Facility**" means Facility A or Facility B.

"**Facility A**" means the US Dollar denominated term loan facility made available under this Agreement as described in paragraph (a) of Clause 2.1 (*The Facilities*).

"**Facility A Commitment**" means:

(a) in relation to an Original Lender, the amount set opposite its name under the heading " **Facility A Commitment**" in Part II of Schedule 1 (*The Original Parties*) and the amount of any other Facility A Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount of any Facility A Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility A Loan**" means a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

"**Facility B**" means the euro denominated term loan facility made available under this Agreement as described in paragraph (b) of Clause 2.1 (*The Facilities*).

"**Facility B Commitment**" means:

(a) in relation to an Original Lender, the amount set opposite its name under the heading " **Facility B Commitment**" in Part II of Schedule 1 (*The Original Parties*) and the amount of any other Facility B Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount of any Facility B Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Facility B Loan**" means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

"**Facility Office**" means:

(a) in respect of a Lender, the office or offices notified by that Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement; or

(b) in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes.

"**Fee Letter**" means any letter or letters dated on or about the date of this Agreement between the Documentation Agent (or any one of them) and the Company, (or the Facility Agent and the Company) setting out the level of fees payable in respect of the Facilities.

"**Finance Document**" means this Agreement, any Accession Letter, each Fee Letter, any Selection Notice, any mandate letter between the Documentation Agent (or any one of them) and the Company, and any other document designated in writing as a " **Finance Document**" by the Facility Agent and the Company.

"**Finance Party**" means the Facility Agent, the Documentation Agent or a Lender.

"**Financial Indebtedness**" means any indebtedness for or in respect of, and without double counting:

(a) moneys borrowed (including, but not limited to, any amount raised by acceptance under any acceptance credit facility and receivables sold or discounted on a recourse basis (it being understood that Permitted Securitisations shall be deemed not to be on a recourse basis and shall not constitute Financial Indebtedness));

(b) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(c) the amount of any liability in respect of any lease or hire purchase contract that would, in accordance with Spanish GAAP, be treated as a Capital Lease;

(d) the deferred purchase price of assets or the deferred payment of services, except trade accounts payable in the ordinary course of business;

(e) obligations of a person under repurchase agreements for the stock issued by such person or another person;

(f) obligations of a person with respect to product invoices incurred in connection with exporting financing;

(g) all Financial Indebtedness of others secured by Security on any asset of a person, regardless of whether such Financial Indebtedness is assumed by such person in an amount equal to the lower of (i) the net book value of such asset and (ii) the amount secured thereby; and

(h) the amount of any potential liability in respect of guarantees of Financial Indebtedness referred to in paragraphs (a) to (g) above.

"**Financial Period**" means any annual or semi-annual accounting period of the Company.

"**First Utilisation Date**" means the date on which the first Utilisation is made under this Agreement.

"**Fitch**" means Fitch Ratings Limited or any successor thereto from time to time.

"**GAAP**" means, in relation to an Obligor, the generally accepted accounting principles applying to it (i) in the country of its incorporation; (ii) in a jurisdiction specified as applicable to it in this Agreement; or (iii) in a jurisdiction agreed to by the Facility Agent which may, in each case, include International Accounting Standards.

"**Group**" means the Company and each of its Subsidiaries from time to time.

"**Guarantors**" means any Original Guarantor and any Additional Guarantor other than any Original Guarantor and any Additional Guarantor which has ceased to be a Guarantor pursuant to Clause 25.4 (*Resignation of Guarantor*) and has not subsequently again become an Additional Guarantor pursuant to Clause 25.3 (*Additional Guarantors*) and "**Guarantor**" means any of them.

"**Holding Company**" means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

"**Initial Termination Date**" means 28 February 2011.

"**Intellectual Property**" means:

(a) any patents, trade marks, service marks, designs, business names, copyrights, design rights, data-base rights, inventions, knowhow and other intellectual property rights and interests, whether registered or unregistered; and

(b) the benefit of all applications and rights to use such assets of each member of the Group.

"**Interest Period**" means, in relation to a Loan, each period determined in accordance with Clause 10 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 9.3 (*Default interest*).

"**International Accounting Standards**" means the accounting standards approved by the International Accounting Standards Board from time to time.

"**Kyoto Protocol**" means the Kyoto Protocol to the United Nations Framework Convention on Climate Change adopted by consensus at the Third Session of the Conference of the Parties in December 1997.

"**Legal Opinions**" means the legal opinions delivered to the Facility Agent pursuant to Clause 4.1 (*Initial Conditions Precedent*) or in relation to any Additional Obligors.

"**Lender**" means:

(a) any Original Lender; and

(b) any bank, financial institution, trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets which, in each case, has become a Party in accordance with Clause 24 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

"**LIBOR**" means, in relation to any Loan in US Dollars:

(a) the applicable Screen Rate; or

(b) (if no Screen Rate is available for the currency or Interest Period of that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request quoted by the Reference Banks to leading banks in the London interbank market,

as of the Specified Time on the Quotation Day for the offering of deposits in the currency of that Loan and for a period comparable to the Interest Period for that Loan.

"**LMA**" means the Loan Market Association.

"**Loan**" means a Facility A Loan or a Facility B Loan.

"**Majority Lenders**" means a Lender or Lenders whose undrawn Commitments and participations in the Loans then outstanding aggregate more than 51 per cent. of all the undrawn Commitments and Loans then outstanding.

"**Mandatory Cost**" means the percentage rate per annum calculated in accordance with Schedule 4 (*Mandatory Cost Formulae*).

"**Margin**" means:

(a) in relation to any Facility A Loan 2.50 per cent. per annum;

(b) in relation to any Facility B Loan 2.25 per cent. per annum; and

(c) in relation to any Unpaid Sum the percentage rate per annum specified in paragraph (a) or (b) above applicable to, as appropriate, Facility A or Facility B in relation to which the Unpaid Sum arises, or if such Unpaid Sum does not arise in relation to a particular Facility, the rate per annum specified above applicable to the Facility to which the Facility Agent reasonably determines the Unpaid Sum most closely relates, or if none, the highest rate per annum specified above.

"**Material Adverse Effect**" means a material adverse effect on:

(a) the business, condition (financial or otherwise) or operations of the Group, taken as a whole;

(b) the rights or remedies of any Finance Party under the Finance Documents; or

(c) the ability of any Obligor to perform its payment obligations under the Finance Documents.

"**Material Subsidiary**" means any Subsidiary of the Company which at any time:

(a) has total assets representing 5 per cent. or more of the total consolidated assets of the Group; and/or

(b) has revenues representing 5 per cent. or more of the consolidated turnover of the Group,

in each case calculated on a consolidated basis.

The Material Subsidiaries as at 30 September 2008 are set out in Schedule 11 (*Material Subsidiaries*) (and compliance with the conditions set out in paragraphs (a) and (b) shall be determined by reference to such Schedule 11 until delivery of the first Compliance Certificate required to be delivered hereunder).

Following delivery of the first Compliance Certificate required to be delivered hereunder, compliance with the conditions set out in paragraphs (a) and (b) shall be determined by reference to the most recent Compliance Certificate supplied by the Company and/or the latest audited financial statements of that Subsidiary (consolidated in the case of a Subsidiary which itself has Subsidiaries) and the latest audited consolidated financial statements of the Group, but if a Subsidiary has been acquired since the date as at which the latest audited consolidated financial statements of the Group were prepared, the figures contained in the most recent Compliance Certificate and/or the financial statements shall be adjusted in order to take into account the acquisition of that Subsidiary (that adjustment being certified by the Group's auditors or any other internationally recognised accounting firm that is approved by the Facility Agent as representing an accurate reflection of each of the respective revised total assets and turnover of the Group).

A report by the auditors of the Company (or, as the case may be, any other internationally recognised accounting firm that is approved by the Facility Agent) that a Subsidiary is a Material Subsidiary shall, in the absence of manifest error, be conclusive and binding on all Parties.

"**Month**" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

(a) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;

(b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and

(c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period. " **Monthly**" shall be construed accordingly.

"**New Lender**" means a New Lender as specified in a Transfer Certificate.

"**New Spanish GAAP**" means the generally accepted accounting principles in Spain which were enacted for periods commencing on or after 1 January 2008 (Spanish GAAP 2007).

"**NOF**" has the meaning ascribed to such term in paragraph 4(d) of Part I of Schedule 2 (*Conditions Precedent*).

"**Notarisation**" has the meaning ascribed to such term in Clause 22.5 (*Notarisation*).

"**Obligors**" means the Borrowers and the Guarantors and "**Obligor**" means any of them.

"**Optional Securities Issuance**" has the meaning given to such term in paragraph (e) of Clause 6.3 (*Rescheduling of Repayments*).

"**Original Financial Statements**" means:

(a) in relation to the Company, its audited unconsolidated and consolidated financial statements for its financial year ended 31 December 2007; and

(b) in relation to any other Obligor, its most recent audited annual financial statements.

"**Original Obligors**" means the Original Borrower and the Original Guarantors.

"**Outlook**" means a rating outlook of the Company with regard to the Company's economic and/or fundamental business condition, as assigned by a Rating Agency.

"**Parallel Facility**" has the meaning given to such term in paragraph (a) of Clause 6.3 (*Rescheduling of Repayments*).

"**Participating Member State**" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"**Party**" means a party to this Agreement.

"**Permitted Notarisations**" has the meaning ascribed to such term in Clause 22.5 (*Notarisation*).

"**Permitted Securitisation**" means a sale, transfer or other securitisation of receivables and related assets by the Company or its Subsidiaries, including a sale at a discount, **provided that** (i) such receivables have been transferred, directly or indirectly, by the originator thereof to a person in a manner that satisfies the requirements for an absolute conveyance under the laws and regulations of the jurisdiction in which such originator is organised and (ii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or other securitisation is carried out on a non-recourse basis or on a basis where recovery is limited solely to the collection of the relevant receivables.

"**Permitted Securitisation Proceeds**" means the cash consideration received by any member of the Group (including any amount received in repayment of intercompany debt) in each case after the date of this Agreement from any Permitted Securitisation (other than a Permitted

Securitisation under a programme which exists on the date of this Agreement or a rollover or extension of such a Permitted Securitisation or any Permitted Securitisation between members of the Group) after deducting:

(a) any expenses which are incurred by the relevant member(s) of the Group with respect to that Permitted Securitisation owing to persons who are not members of the Group; and

(b) any Tax incurred and required to be paid by the relevant member(s) of the Group with respect to that Permitted Securitisation (as reasonably determined by the relevant member(s) of the Group on the basis of rates existing at the time and taking account of any available credit, deduction or allowance).

"**Process Agent**" means CEMEX UK at its registered address (being, as at the date of this Agreement, CEMEX House, Coldharbour Lane, Thorpe, Egham, Surrey TW20 8TD) and with fax number (+44) 01932 568933, attn: The Secretary.

"**Qualifying Lender**" has the meaning given to that term in Clause 13 (*Tax Gross-up and Indemnities*).

"**Quotation Day**" means, in relation to any period for which an interest rate is to be determined:

(a) (if the currency is euro) two TARGET Days before the first day of that period; or

(b) (if the currency is US Dollars) two Business Days before the first day of that period,

unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Day for that currency will be determined by the Facility Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days).

"**Rating**" means at any time the solicited long term credit rating or the senior implied rating of the Company or an issue of securities of or guaranteed by the Company, where the rating is based primarily on the senior unsecured credit risk of the Company and/or, in the case of the senior implied rating, on the characteristics of any particular issue, assigned by a Rating Agency.

"**Rating Agency**" means Fitch or S&P.

"**Reasonable Endeavours Securities Issuance**" has the meaning given to such term in Clause 22.20 (*Reasonable Endeavours Securities Issuance*).

"**Reference Banks**" means the principal London offices of Citibank International plc, The Royal Bank of Scotland plc, Banco Bilbao Vizcaya Argentaria, S.A. and such other banks as may be appointed by the Facility Agent in consultation with the Company.

"**Relevant Interbank Market**" means, in relation to euro, the European interbank market, and, in relation to any other currency, the London interbank market.

"**Relevant Jurisdiction**" means in relation to an Obligor:

(a) its jurisdiction of incorporation; and

(b) any jurisdiction where it conducts its business.

"**Relevant Period**" has the meaning given to that term in Clause 21 (*Financial Covenants*).

"**Repeating Representations**" means each of the representations set out in Clauses 19.1 (*Status*) to Clause 19.6 (*Governing law and enforcement*), Clause 19.9 (*No Default*), Clause 19.11 (*Financial statements*), Clause 19.12 (*Pari passu ranking*), Clause 19.13 (*No proceedings pending or threatened*) and Clause 19.14 (*No winding-up*).

"**Rinker**" means Rinker Group Pty Ltd (ABN 53 003 433 118) a company incorporated under the laws of Australia.

"**Rinker Extension**" has the meaning given to such term in paragraph (a) of Clause 6.3 (*Rescheduling of Repayments*).

"**Rinker Facility Agreement**" means the US$9,000,000,000 (now US$6,000,000,000) acquisition facilities agreement dated 6 December 2006 as amended from time to time between the Company as borrower, The Royal Bank of Scotland plc as agent and others.

"**S&P**" means Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc., or any successor thereto from time to time.

"**Screen Rate**" means:

(a) in relation to LIBOR, the British Bankers' Association Interest Settlement Rate for the relevant currency and period; and

(b) in relation to EURIBOR, the percentage rate per annum determined by the Banking Federation of the European Union for the relevant period,

displayed on the appropriate page of the Reuters screen. If the agreed page is replaced or the service ceases to be available, the Facility Agent may specify another page or service displaying the appropriate rate after consultation with the Company and the Lenders.

"**Securities Issuance**" means a Reasonable Endeavours Securities Issuance or an Optional Securities Issuance.

"**Security**" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Selection Notice**" means a notice substantially in the form set out in Part II of Schedule 3 (*Requests*) given in accordance with Clause 10 (*Interest Periods*) in relation to Facility A or Facility B.

"**Spain**" means the Kingdom of Spain.

"**Spanish Public Document**" means any obligation in an *Escritura Pública* or *documento intervenido*.

"**Specified Time**" means a time determined in accordance with Schedule 8 (*Timetables*).

"**Stake**" means a number of shares in any Group member held by another Group member the disposal of which would cause the first Group member to cease to be a Subsidiary of the second Group member.

"**Subsidiary**" means in relation to any company or corporation, a company or corporation:

(a) which is controlled, directly or indirectly, by the first mentioned company or corporation;

(b) more than half the issued share capital of which is beneficially owned, directly or indirectly (by one or more companies or corporations) by the first mentioned company or corporation; or

(c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able (directly or indirectly) to direct its affairs and/or to control the composition of its board of directors or equivalent body.

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

"**TARGET Day**" means any day on which TARGET2 is open for the settlement of payments in euro.

"**Tax**" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Term Loan**" means a Facility A Loan or a Facility B Loan.

"**Termination Date**" means subject to Clause 7 (*Extension Option*), the Initial Termination Date, or if such day would not be a Business Day, the immediately preceding Business Day.

"**Total Commitments**" means the aggregate of the Total Facility A Commitments and the Total Facility B Commitments.

"**Total Facility A Commitments**" means the aggregate of the Facility A Commitments, being US$617,500,000 at the date of this Agreement.

"**Total Facility B Commitments**" means the aggregate of the Facility B Commitments, being €587,500,000 at the date of this Agreement.

"**Transfer Certificate**" means a certificate substantially in the form set out in Schedule 5 (*Form of Transfer Certificate*) or any other form agreed between the Facility Agent and the Company.

"**Transfer Date**" means, in relation to a transfer, the later of:

(a) the proposed Transfer Date specified in the Transfer Certificate; and

(b) the date on which the Facility Agent executes the Transfer Certificate.

"**Unpaid Sum**" means any sum due and payable but unpaid by an Obligor under the Finance Documents.

"**U.S.**", "**US**" or "**United States**" means the United States of America.

"**U.S. Guarantor**" means a Guarantor whose jurisdiction of organisation is a state of the United States of America or the District of Columbia.

"**U.S. Lender**" means (i) any bank or other financial institution that is organised under the laws of the United States (but does not include any branch of a bank organised under the laws of the United States where such branch is located outside the United States) or (ii) any agency or branch of a foreign bank located within the United States. A financial institution that is not a bank and is controlled, directly or indirectly, by a person or entity located in or organised under the laws of the United States will be deemed to be a U.S. Lender, unless that financial institution is organised under the laws of a jurisdiction outside the United States and has its principal office (and any different office directly administering any Loans or participations therein) outside the United States. Any proposed Lender or participant that is not a bank will be deemed to be a financial institution for purposes of this definition.

"**Utilisation**" means a utilisation of a Facility.

"**Utilisation Date**" means the date of a Utilisation, being the date on which the relevant Loan is to be made.

"**Utilisation Request**" means a notice substantially in the form set out in Part I of Schedule 3 (*Requests*).

"**VAT**" means value added tax as provided for in the Sixth Council Directive of 17 May 1977 on the harmonization of the laws of the member states of the European Union relating to turnover taxes - Common system of value added tax: uniform basis of assessment (77/388/EEC) and the relevant implementing legislation in member states of the European Union and any other Tax of a similar nature.

1.2 **Construction**

(a) Unless a contrary indication appears a reference in this Agreement to:

(i) the "**Agent**", the "**Documentation Agent**", any "**Finance Party**", any "**Lender**", any "**Obligor**", any "**Party**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

(ii) a document in "**agreed form**" is a document which is initialled by or on behalf of the Company and the Facility Agent or the Documentation Agent;

(iii) "**assets**" includes present and future properties, revenues and rights of every description;

(iv) the "**European interbank market**" means the interbank market for euro operating in Participating Member States;

(v) a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated (in each case, however fundamentally);

(vi) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

(vii) a "**participation**" of a Lender in a Loan, means the amount of such Loan which such Lender has made or is to make available and thereafter that part of the Loan which is owed to such Lender;

(viii) a "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing;

(ix) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, with which persons who are subject thereto are accustomed to comply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

(x) the "**winding-up**", "**dissolution**", "**administration**" or "**reorganisation**" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings (such as, in Spain, *concurso*, *liquidación forzasa*, *intervención* or *nombramiento de un administrator judicial*) under the laws and regulations of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, bankruptcy, dissolution, administration, arrangement, adjustment, protection or relief of debtors;

(xi) a provision of law is a reference to that provision as amended or re-enacted without material modification;

(xii) a time of day is a reference to London time; and

(xiii) a reference to a clause, paragraph or schedule, unless the context otherwise requires, is a reference to a clause of, a paragraph of or a schedule to this Agreement.

(b) Section, Clause and Schedule headings are for ease of reference only.

(c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

(d) A Default (including an Event of Default) is "**continuing**" if it has not been remedied or waived but, for the avoidance of doubt, no breach of any of the financial covenants set out in Clause 21 (*Financial Covenants*) shall be capable of being or be deemed to be remedied by virtue of the fact that upon any subsequent testing of such covenants pursuant to Clause 21 (*Financial Covenants*), there is no breach thereof.

1.3 **Currency Symbols and Definitions**

"**€**", "**EUR**" and "**euro**" means the single currency unit of the Participating Member States and " **US$**", "**$**" **and** "**US Dollars**" denote lawful currency of the United States of America.

1.4 **Third party rights**

(a) Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or enjoy the benefit of any term of any Finance Document.

(b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary any Finance Document at any time.

SECTION 2
THE FACILITIES

2. THE FACILITIES

2.1 The Facilities

Subject to the terms of this Agreement, the Lenders make available:

(a) a US Dollar term loan facility in an aggregate amount equal to the Total Facility A Commitments; and

(b) a euro term loan facility in an aggregate amount equal to the Total Facility B Commitments.

2.2 Finance Parties' rights and obligations

(a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

(b) Except as otherwise stated in the Finance Documents, the rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt.

(c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

2.3 Affiliate Facility Offices

(a) A Lender may designate an Affiliate of that Lender as its Facility Office for the purpose of participating in or making Loans to Borrowers in particular countries.

(b) An Affiliate of a Lender may be designated for the purposes of paragraph (a):

(i) by appearing under the name of the Lender in Part II (*The Original Lenders*) of Schedule 1 (*The Original Parties*) and executing this Agreement; or

(ii) by being referred to in and executing a Transfer Certificate by which the Lender becomes a Party.

(c) An Affiliate of a Lender referred to in this Clause 2.3 shall not have any Commitment, but shall be entitled to all rights and benefits under the Finance Documents relating to its participation in Loans, and shall have the corresponding duties of a Lender in relation thereto, and is a Party to this Agreement and each other relevant Finance Document for those purposes.

(d) A Lender which has an Affiliate appearing under its name in Part II (*The Original Lenders*) of Schedule 1 (*The Original Parties*) or, as the case may be, in a Transfer Certificate, will procure, subject to the terms of this Agreement, that the Affiliate

participates in Loans to the relevant Borrower(s) in place of that Lender. However, if as a result of the Affiliate's participation, an Obligor would be obliged to make a payment to the Affiliate under Clause 13 (*Tax Gross-up and indemnities*) or Clause 14 (*Increased Costs*), then the Affiliate is only entitled to receive payment under those clauses to the same extent as the Lender (designating such Affiliate) would have been if the Lender had not designated such Affiliate for the purposes of paragraph (a) above.

3. PURPOSE

3.1 Purpose

The Borrower shall (directly or indirectly) apply all amounts borrowed by it under the Facilities towards the refinancing in full of the Existing Bilateral Debt and (subject to a maximum limit of €20,000,000 (or equivalent in other currencies)) towards its general corporate purposes.

3.2 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. CONDITIONS OF UTILISATION

4.1 Initial Conditions Precedent

The Company may not deliver the first Utilisation Request unless the Facility Agent has received all of the documents and other evidence listed in Part I of Schedule 2 (*Conditions Precedent to Initial Utilisation*) in form and substance satisfactory to the Facility Agent, acting reasonably. The Facility Agent shall promptly notify the Company and the Lenders that it is so satisfied.

4.2 Further Conditions Precedent

The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) if on the date of the Utilisation Request and on the proposed Utilisation Date:

(a) no Default is continuing or would result from the proposed Utilisation; and

(b) the Repeating Representations which are or which are deemed to be made or repeated by each Obligor on such date pursuant to Clause 19.20 (*Times on which representations are made*) are true in all material respects.

4.3 Maximum number of Loans

(a) The Company may not deliver a Utilisation Request if as a result of the proposed Utilisation:

(i) two or more Facility A Loans would be outstanding; or

(ii) two or more Facility B Loans would be outstanding.

(b) The Borrower may not request that a Loan be divided if as a result of the proposed division five or more Loans under the same Facility would be outstanding.

SECTION 3
UTILISATION

5. UTILISATION

5.1 Delivery of a Utilisation Request

The Company may utilise a Facility by delivery to the Facility Agent of a duly completed Utilisation Request not later than the Specified Time.

5.2 Completion of a Utilisation Request

(a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

(i) it identifies the Facility to be utilised;

(ii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;

(iii) the amount of the Loan complies with Clause 5.3 (*Amount*); and

(iv) the proposed Interest Period complies with Clause 10 (*Interest Periods*).

(b) A single Utilisation Request may be given in respect of a maximum of two Loans being one Loan under each Facility.

5.3 Amount

The amount of the proposed Utilisation must be an amount, in the case of Facility A, in US Dollars, and in the case of Facility B, in euro, which is an amount equal to the Total Facility A Commitments and, in the case of Facility B, the Total Facility B Commitments.

5.4 Lenders' participation

(a) If the conditions set out in this Agreement have been met, each Lender shall (subject to Clause 5.5 (*Deemed Utilisation*)) make its participation in each Loan available by the Utilisation Date through its Facility Office.

(b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the relevant Available Facility immediately prior to making the Loan.

5.5 Deemed Utilisation

(a) In respect of the first Utilisation of each Facility (and subject to the conditions of this Agreement), each Original Lender which is (or which has an Affiliate which is), on the date of this Agreement, a lender of Existing Bilateral Debt, shall be deemed to make its participation in each Loan available by the Utilisation Date through its Facility Office (each such Original Lender, an " **Existing Bilateral Lender**").

(b) Each Existing Bilateral Lender (for itself and, to the extent applicable, on behalf of any of its Affiliates which is a lender of Existing Bilateral Debt) and the Company (for itself and, to the extent applicable, on behalf of any Subsidiaries which are borrowers of Existing Bilateral Debt) confirm that the outstanding amounts owed to that Existing Bilateral Lender or its Affiliate, as applicable, under the Existing Bilateral Debt set out

against that Existing Bilateral Lender's or its Affiliate's, as applicable, name in Schedule 12 (*Existing Bilateral Debt*) shall, contemporaneously with the first Utilisation under this Agreement as contemplated by paragraph (a) above (but no earlier), be irrevocably cancelled and deemed repaid in full, and each other Obligor and Finance Party acknowledges and agrees to the above.

(c) Each Existing Bilateral Lender (for itself and, to the extent applicable, on behalf of any Affiliate which is a lender of Existing Bilateral Debt) confirms that any notice of prepayment or cancellation requirement under the Existing Bilateral Debt owed to it or that Affiliate, is irrevocably waived in relation to the deemed prepayment and cancellation on the first Utilisation Date as contemplated by paragraph (b) above.

(d) The Company represents, warrants and undertakes for itself and, to the extent applicable, on behalf of any Subsidiary which is a borrower of Existing Bilateral Debt, that it has the power, capacity and authority to give the confirmations referred to in this Clause 5.5 and that the repayment and cancellation of Existing Bilateral Debt referred to in this Clause 5.5 will be effective against, and binding on, it and such Subsidiaries.

(e) Each Existing Bilateral Lender represents, warrants and undertakes for itself and, to the extent applicable, on behalf of any of its Affiliates which is a lender of Existing Bilateral Debt, that it has the power, capacity and authority to give the confirmations referred to in this Clause 5.5 and that the repayment and cancellation of Existing Bilateral Debt referred to in this Clause 5.5 will be effective against, and binding on, it and such Affiliates.

(f) Each Existing Bilateral Lender agrees to provide (and to procure that each Affiliate of it which is a lender of Existing Bilateral Debt provides) following request by the Company, confirmation to the Company that the Existing Bilateral Debt owed to it or, as the case may be, such Affiliate, has been cancelled and repaid in full.

SECTION 4
REPAYMENT, PREPAYMENT AND CANCELLATION

6. REPAYMENT

6.1 Repayment of Facility A Loans

The Borrower shall repay the aggregate Facility A Loans in instalments by repaying on each Repayment Date an amount which reduces the amount of outstanding aggregate Facility A Loans by the amount equal to the relevant percentage of all the Facility A Loans borrowed by the Borrower as at the close of business in London on the last day of the Availability Period in relation to Facility A as set out in the table set out beneath Clause 6.2 (*Repayment of Facility B Loans*) below.

6.2 Repayment of Facility B Loans

The Borrower shall repay the aggregate Facility B Loans in instalments by repaying on each Repayment Date an amount which reduces the amount of the outstanding aggregate Facility B Loans by the amount equal to the relevant percentage of all the Facility B Loans borrowed by the Borrower as at the close of Business in London on the last day of the Availability Period in relation to Facility B set out in the table set out below, subject to any prepayment or adjustment of such Repayment Instalment in accordance with the provisions of this Agreement.

Repayment Date	Repayment Instalment	
	Facility A (%)	Facility B (%)
13 November 2009	25.0	25.0
26 February 2010	5.5	5.5
31 May 2010	5.5	5.5
31 August 2010	5.5	5.5
30 November 2010	5.5	5.5
Initial Termination Date (or, subject to Clause 7 (*Extension Option*), the Extended Termination Date)	53.0	53.0

The Repayment Instalments due in respect of Facility A and Facility B on 13 November 2009 as set out above shall be referred to respectively as the "**2009 Facility A Repayment Instalment**" and the "**2009 Facility B Repayment Instalment**". The Repayment Instalments due in respect of Facility A in 2010 as set out above shall be referred to collectively as the "**2010 Facility A Repayment Instalments**" and the Repayment Instalments due in respect of Facility B in 2010 as set out above shall be referred to collectively as the " **2010 Facility B Repayment Instalments**".

6.3 Rescheduling of Repayments

(a) If the Company has, on or before the Effective Date:

(i) obtained the required consent of the lenders under the Rinker Facility Agreement to extend the maturity of all or a part of Facility B (as defined in the Rinker Facility Agreement, and which would otherwise mature on 6 December 2009) in respect of US$1,500,000,000 or more until no earlier than 6 December 2010 (the " **Rinker Extension**"); or

(ii) the Company has entered into a new committed parallel facility agreement which will provide at least US$1,500,000,000 to be drawn down on or about 31 December 2009 in order to repay an amount of outstanding loans under Facility B (as defined in the Rinker Facility Agreement) at least equal to US$1,500,000,000 (the "**Parallel Facility**"),

then in addition to the Repayment Instalments set out in Clauses 6.1 (*Repayment of Facility A Loans*) and 6.2 (*Repayment of Facility B Loans*), the Company will make an additional Repayment Instalment in respect of each Facility on 31 December 2009 (the " **Additional Facility A Repayment Instalment**" and the "**Additional Facility B Repayment Instalment**" respectively, and together, the "**Additional Repayment Instalments**"). The Company shall confirm to the Facility Agent on or prior to the Effective Date whether it has received such consents to the Rinker Extension or, as the case may be, entered into the Parallel Facility.

(b) The amount of the Additional Repayment Instalments, taken together, will be an amount in US$ equal to:

(i) the amount of commitments pursuant to the Rinker Extension or, as the case may be, under the Parallel Facility, *less* US$1,500,000,000, subject in each case to a maximum amount of US$600,000,000; *multiplied by*

(ii) 66.66/100,

and such amount shall be applied *pro rata* to the outstanding principal amount of each of Facility A and Facility B (based on the US Dollar equivalent of the amount outstanding under all Facility B Loans on a fixing date applicable to the time of the calculation of such payment as calculated by the Facility Agent at its spot rate of exchange).

(c) The aggregate amount of the Additional Repayment Instalments shall in no circumstances exceed US$600,000,000 multiplied by 66.66/100.

(d) In the event that the Additional Repayment Instalments are payable in accordance with paragraph (a) above, the 2010 Repayment Instalments shall each be proportionately reduced to reflect the amount of the relevant Additional Repayment Instalment.

(e) If and to the extent that the Company does not (i) receive the required consents to the Rinker Extension in an amount equal to or in excess of US$2,100,000,000 or (ii) enter into a Parallel Facility for an amount equal to or in excess of US$2,100,000,000, the Company or any Subsidiary of the Company may (but shall not be obliged to) use reasonable efforts to issue securities in the capital markets (an "**Optional Securities Issuance**") and, if such securities are issued, the proceeds thereof will be applied in

prepayment of the Facilities as set out in Clause 6.4 (*Effect of cancellation and prepayment on scheduled repayments*) and Clause 8.7 (*Mandatory Prepayment from Securities Issuance Proceeds*).

6.4 **Effect of cancellation and prepayment on scheduled repayments**

(a) If the Company cancels the whole or any part of the Facility A Commitments or the Facility B Commitments in accordance with Clause 8.5 (*Right of cancellation and repayment in relation to a single Lender*) or if the Facility A Commitment or the Facility B Commitment of any Lender is cancelled under Clause 8.1 (*Illegality of a Lender*) then:

(i) in the case of the Facility A Commitments, the amount of the Repayment Instalment in relation to Facility A for each Repayment Date falling after that cancellation will reduce *pro rata* by the amount cancelled; and

(ii) in the case of the Facility B Commitments, the amount of the Repayment Instalment in relation to Facility B for each Repayment Date falling after that cancellation will reduce *pro rata* by the amount cancelled.

(b) If any of the Facility A Loans or the Facility B Loans are prepaid in accordance with Clause 8.5 (*Right of cancellation and repayment in relation to a single Lender*) or Clause 8.1 (*Illegality of a Lender*) then the amount of the Repayment Instalment for the relevant Facility for each Repayment Date falling after that prepayment will reduce *pro rata* by the amount of the Facility A Loan or, as the case may be, Facility B Loan prepaid.

(c) If any of the Facility A Loans or Facility B Loans are prepaid in accordance with Clause 8.4 (*Voluntary prepayment of Loans*) then:

(i) in the case of Facility A, the amount of the Facility A Loan prepaid shall reduce the amount of the Repayment Instalments for the Repayment Dates falling after that prepayment and, as between such Repayment Instalments, shall be applied at the option of the Company; and

(ii) in the case of Facility B, the amount of the Facility B Loan prepaid shall reduce the amount of the Repayment Instalments for the Repayment Dates falling after that prepayment and, as between such Repayment Instalments, shall be applied at the option of the Company.

(d) If any of the Facility A Loans or Facility B Loans are prepaid in accordance with Clause 8.6 (*Mandatory prepayment from Disposal Proceeds*) or, with respect to a Reasonable Endeavours Securities Issuance, Clause 8.7 (*Mandatory Prepayment from Securities Issuance Proceeds*) then:

(i) in the case of Facility A, the amount of the Facility A Loan prepaid shall reduce the amount of the 2009 Facility A Repayment Instalment; and

(ii) in the case of Facility B, the amount of the Facility B Loan prepaid shall reduce the amount of the 2009 Facility B Repayment Instalment.

(e) If any of the Facility A Loans or Facility B Loans are prepaid in accordance with, with respect to an Optional Securities Issuance, Clause 8.7 (*Mandatory Prepayment from Securities Issuance Proceeds*) then:

(i) in the case of Facility A, the amount of the Facility A Loan prepaid shall reduce the amount of the 2010 Facility A Repayment Instalments on a *pro rata* basis; and

(ii) in the case of Facility B, the amount of the Facility B Loan prepaid shall reduce the amount of the 2010 Facility B Repayment Instalments on a *pro rata* basis.

7. EXTENSION OPTION

7.1 Request for Extension

(a) The Company may request, by notifying the Facility Agent in writing (the " **Extension Request**") not earlier than 60 days and not later than 45 days before the Initial Termination Date, the extension of the Initial Termination Date in respect of the whole or a part of Facility A and/or Facility B by an additional 364 day period in each case and the Company shall specify:

(i) (where such requested extension is for a part of Facility A and/or Facility B) the amount of Facility A Commitments and/or Facility B Commitments which are the subject of that Extension Request; and

(ii) any terms and conditions applicable to the requested extension.

(b) Upon notification by the Facility Agent that it has received an Extension Request from the Company, each Lender shall freely determine whether or not it shall extend its Facility A Commitments and/or, as the case may be, its Facility B Commitments (or, in each case, any part thereof) in accordance with the relevant Extension Request and shall, within 10 Business Days of receipt of such notification from the Facility Agent, notify the Facility Agent of its own decision to accept or decline the request set out in the Extension Request.

(c) In the event that any Lender does not notify the Facility Agent of its decision with respect to the Extension Request in the timeframe required by paragraph (b) above, that Lender shall be deemed to have declined the request set out in the Extension Request.

(d) The Facility Agent shall, as soon as reasonably practicable after it has received all the Lenders' respective decisions in accordance with paragraph (b) above, notify the Company and the Lenders of the level of acceptances.

(e) The refusal by any Lender to extend any Commitment shall not result in any other Lender being obliged to increase its Commitment.

7.2 Acceptance of Extension Request

Any agreement by a Lender to an Extension Request shall extend that Lender's Facility A Commitments and/or, as the case may be, Facility B Commitments by an additional 364 day period only (such extended date, the " **Extended Termination Date**") and shall be binding on each such Lender only.

7.3 **Reduced Commitments**

In the event that a Lender declines (or, as contemplated by paragraph (c) of Clause 7.1 above, is deemed to decline) to extend its Facility A Commitments and/or, as the case may be, Facility B Commitments pursuant to the Extension Request, the amount of the Total Facility A Commitments and/or, as the case may be, the Total Facility B Commitments, shall, following the Initial Termination Date, reduce by the amount of that declining Lender's Facility A Commitments and/or, as the case may be, Facility B Commitments, accordingly.

7.4 **Consents of Lenders**

In the event that a Lender agrees to extend its Facility A Commitments and/or, as the case may be, Facility B Commitments pursuant to the Extension Request, it shall, by its execution of this Agreement (or, if applicable, a Transfer Certificate), be deemed to consent to:

(a) the repayment on the Initial Termination Date of any Lender which has declined to extend its Facility A Commitments and/or, as the case may be, Facility B Commitments pursuant to the Extension Request; and

(b) the extension of the Facility A Commitments and/or as the case may be, Facility B Commitments of each other Lender which has accepted the Extension Request.

7.5 **Extension Requests and Interest**

(a) Each Extension Request shall, once delivered, be unconditional and irrevocable.

(b) The Facility Agent shall forward a copy of any Extension Request to each Lender as soon as practicable after receipt.

8. **PREPAYMENT AND CANCELLATION**

8.1 **Illegality of a Lender**

If, at any time, it is or will become unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Utilisation:

(a) that Lender shall promptly notify the Facility Agent upon becoming aware of that event (specifying the reason for such unlawfulness and the date on which such unlawfulness occurred or will occur, being no earlier than the last day of any applicable grace period permitted by law (the "**Relevant Date**")) and, in any event, at a time which permits the Company to repay that Lender's participation on the date such repayment is required to be made;

(b) upon the Facility Agent notifying the Company, the Commitment of that Lender will be immediately cancelled; and

(c) the Company shall, on the last day of the Interest Period for each Loan ending immediately prior to the Relevant Date and occurring after the Facility Agent has notified the Company or, if earlier, the Relevant Date, repay that Lender's participation in the Loans together with accrued interest and all other amounts owing to that Lender under the Finance Documents.

8.2 **Change of Control**

(a) In this Clause 8.2 a "**Change of Control**" occurs if CEMEX Parent ceases to:

(i) be entitled to (whether by way of ownership of shares (directly or indirectly), proxy, contract, agency or otherwise):

(A) cast, or control the casting of, at least 51 per cent. of the maximum number of votes that might be cast at a general meeting of the Company;

(B) appoint or remove all, or the majority, of the directors or other equivalent officers of the Company; or

(C) give directions with respect to the operating and financial policies of the Company which the directors or other equivalent officers of the Company are obliged to comply with; or

(ii) hold (directly or indirectly) at least 51 per cent. of the common shares in the Company.

(b) Upon the occurrence of a Change of Control (and notwithstanding any other term of this Agreement) each Lender:

(i) shall be under no obligation to fund its share of any proposed Utilisation after such date;

(ii) may by three Business Days' notice to the Facility Agent, cancel all of its Available Commitments (in which case they shall be so cancelled); and

(iii) may by three Business Days' notice to the Facility Agent, require that its share of all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents, shall become immediately due and payable (in which case it shall so become).

8.3 **Automatic Cancellation**

At the close of business on the last day of the Availability Period in respect of each Facility, the Available Commitment of each Lender under such Facility shall be (if it has not already been) cancelled and reduced to zero.

8.4 **Voluntary prepayment of Loans**

(a) A Borrower may, if the Company gives the Facility Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of:

(i) a Facility A Loan, **provided that**, at the same time, a prepayment in an amount proportionate to the amount of that prepayment (when compared to the aggregate of Facility A Loans outstanding immediately prior to such prepayment taking place) is applied in prepayment in whole or part of a Facility B Loan;

(ii) a Facility B Loan, **provided that**, at the same time, a prepayment in an amount proportionate to the amount of that prepayment (when compared to the aggregate of Facility B Loans outstanding immediately prior to such prepayment taking place) is applied in prepayment in whole or part of a Facility A Loan,

but, in each case, if in part, being an amount that reduces the amount of that Loan by a minimum amount, in the case of Facility A, of US$10,000,000 or, in the case of Facility B, €10,000,000.

(b) A Loan may be voluntarily prepaid at any time.

8.5 **Right of repayment and cancellation in relation to a single Lender**

(a) If:

(i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (c) of Clause 13.2 (*Tax gross-up*); or

(ii) any Lender claims indemnification from an Obligor under Clause 13.3 (*Tax indemnity*) or Clause 14.1 (*Increased costs*),

the Company may, whilst the circumstance giving rise to the requirement or indemnification continues, give the Facility Agent notice of cancellation of the Commitment of that Lender and its intention to procure the repayment of that Lender's participation in the Loans.

(b) On receipt of a notice referred to in paragraph (a) above, the relevant Commitment of that Lender shall immediately be reduced to zero.

(c) On the last day of each Interest Period which ends after the Company has given notice under paragraph (a) above (or, if earlier, the date specified by the Company in that notice), each Borrower shall repay that Lender's participation in the Loans to which such Interest Period relates.

8.6 **Mandatory Prepayment from Disposal Proceeds**

(a) In this Clause 8.6:

"**Disposal Proceeds**" means the cash consideration received after the date of this Agreement by any member of the Group (including any amount received in repayment of intercompany debt) for any Disposal (except in respect of any Excluded Disposal Proceeds) after deducting:

(i) any expenses which are incurred by the disposing party of such assets with respect to that disposing party of such assets with respect to that Disposal owing to persons who are not members of the relevant Group; and

(ii) any Tax incurred and required to be paid by the disposing party in connection with that Disposal (as reasonably determined by the disposal party on the basis of rates existing at the time of the disposal and taking account of any available credit, deduction or allowance).

"**Disposal**" means a sale, lease, licence, transfer, loan or other disposal by a person of any asset or shares in any Subsidiary or other company whose principal purpose or one of whose principal purposes is the ownership of assets which are to be the subject of a Disposal (whether by a voluntary or involuntary single transaction or series of transactions).

"**Excluded Disposal Proceeds**" means the proceeds of any Disposal of:

(i) inventory or trade receivables;

(ii) assets which are redundant or no longer required with respect to the business of the disposing entity;

(iii) assets in the ordinary course of trading of the disposing entity;

(iv) assets which are located in Hungary or Austria, or which are owned or operated by members of the Group which are incorporated and/or have their place of business in Hungary or Austria;

(v) assets pursuant to a Permitted Securitisation programme existing as at the Effective Date (or any rollover or extension of such a Permitted Securitisation);

(vi) any asset from any member of the Group (the "**Transferor**") to another member of the Group (the "**Transferee**") on arm's length terms and for fair market or book value, **provided that** the proceeds relating thereto shall not constitute Excluded Disposal Proceeds unless:

(A) in the case of any Disposal by a Guarantor of all or substantially all of its assets (whether by a single transaction or a series of transactions) where the Transferee is not an Obligor, the Transferee becomes a Guarantor; or

(B) in the case of any Disposal by any Material Subsidiary to another member of the Group which is not a Material Subsidiary, the person making such Disposal does not cease to be a Material Subsidiary or, if it ceases to be a Material Subsidiary, any Transferee shall be deemed to be a Material Subsidiary;

(vii) assets in exchange for other assets comparable or superior as to value and relating to the business of the Group, or any similar arrangement, including Disposals of assets in exchange for consideration comprising a combination of other assets and cash (but **provided that** the amount of any partial cash consideration so received shall not be Excluded Disposal Proceeds and shall be treated as Disposal Proceeds in accordance with this Clause 8.6);

(viii) assets leased or licensed to any director, officer or employee of any member of the Group in connection with and as part of the ordinary course of the service or employment arrangements of the Group;

(ix) marketable securities (being securities (whether equity, debt or other securities) which are listed on a stock exchange or for which a trading market exists (whether on market or over the counter) and which are short term investments held as current assets and excluding shares in Subsidiaries of the Company; and

(x) any assets or shares where the proceeds from that Disposal are an amount equal to or less than or US$50,000,000 (or equivalent in other currencies) when aggregated with the proceeds of all other Disposals made since the date of this Agreement.

"**Specified Amount**" means, where the aggregate amount of Disposal Proceeds received by the Group (on a cumulative basis) is:

(i) less than or equal to US$500,000,000 (or equivalent in other currencies), 20 per cent. of such Disposal Proceeds (up to a maximum aggregate amount of US$100,000,000 (or equivalent in other currencies));

(ii) greater than US$500,000,000 (or equivalent in other currencies) but less than or equal to US$1,000,000,000 (or equivalent in other currencies), 30 per cent. of such Disposal Proceeds as exceed US$500,000,000 (up to a maximum aggregate amount of US$150,000,000 (or equivalent in other currencies)); and

(iii) greater than US$1,000,000,000 (or equivalent in other currencies) but less than or equal to US$1,500,000,000 (or equivalent in other currencies), 40 per cent of such Disposal Proceeds as exceed US$1,000,000,000 (or equivalent in other currencies) (up to a maximum aggregate amount of US$200,000,000 (or equivalent in other currencies)),

and **provided that** the aggregate amount of Disposal Proceeds applied in prepayment in accordance with this Clause 8.6 shall not exceed the aggregate amount of the 2009 Repayment Instalments.

For the purposes of determining the amount in US$ actually received by the relevant Group member, the currency received shall be converted at the Facility Agent's Spot Rate of Exchange then applicable.

(b) Up to and including the date for payment of the 2009 Repayment Instalments the Company shall prepay any outstanding Loans with the Specified Amount of any Disposal Proceeds (unless, prior to such date, each 2009 Repayment Instalment has already been repaid or prepaid in full).

(c) The Company shall, if requested to do so by the Facility Agent, promptly deliver a certificate to the Facility Agent confirming any Disposal that has given rise to any Excluded Disposal Proceeds and setting out reasonable details of the relevant Disposal.

(d) Any prepayment made under this Clause 8.6 shall occur (subject to paragraph (e) below) either:

(i) where the last day of the current Interest Period falls more than 30 days from the date of receipt of the relevant Disposal Proceeds by the disposing member of the Group, on the last day of that Interest Period; and

(ii) where the last day of the current Interest Period falls fewer than 30 days from the date of receipt of the relevant Disposal Proceeds by the disposing member of the Group, the date falling not later than 30 days after the last day of that Interest Period (or, if earlier, the date for payment of the 2009 Repayment Instalments).

(e) If the amount of any prepayment under this Clause 8.6 would not reduce the Facility A Loans and Facility B Loans in aggregate by a minimum amount of US$10,000,000 (or equivalent in other currencies), the Company shall not be required to make that prepayment until the amount required to be prepaid under this Clause 8.6 is equal to or greater than US$10,000,000 (whereupon such amount will be applied in prepayment in accordance with this Clause 8.6).

(f) A prepayment made under this Clause 8.6 shall be applied between Facility A and Facility B in equal proportions (when compared to, respectively, the aggregate of the Facility A Loans outstanding immediately prior to such prepayment and the aggregate of the Facility B Loans outstanding immediately prior to such prepayment) and shall reduce the Repayment Instalments in the manner contemplated by paragraph (d) of Clause 6.4 (*Effect of cancellation and prepayment on scheduled repayments*).

8.7 **Mandatory Prepayment from Securities Issuance Proceeds**

(a) In this Clause 8.7:

"**Securities Issuance Proceeds**" means the cash proceeds received by any member of the Group from a Reasonable Endeavours Securities Issuance or an Optional Securities Issuance after deducting:

(i) any expenses which are incurred by any member of the Group with respect to that Securities Issuance owing to persons who are not members of the Group; and

(ii) any Tax incurred and required to be paid by any member of the Group in connection with that Securities Issuance (as reasonably determined by the issuer on the basis of rates existing at the time of the Securities Issuance and taking account of any available credit, deduction or allowance,

provided that, in the case of a Reasonable Endeavours Securities Issuance, the amount of Securities Issuance Proceeds to which this Clause 8.7 applies shall not exceed (i) the amount equal to the amount by which the aggregate amount of Disposal Proceeds received by the Group (on a cumulative basis) in the period from the date of this Agreement to the date of such issuance is less than US$1,000,000,000 or (ii) if less, the Securities Issuance Proceeds resulting from the Reasonable Endeavours Securities Issuance (the applicable amount being the "**Securities Issuance Disposal Shortfall Amount**").

(b)

(i) If there has been a Reasonable Endeavours Securities Issuance, the Company shall prepay the outstanding Loans in an amount equal to the lesser of (A) the aggregate of the amounts which would be payable pursuant to the definition of

"Specified Amount", provided that each reference therein to "Disposal Proceeds" shall be deemed to be a reference to "Disposal Proceeds and the Securities Issuance Disposal Shortfall Amount"; and (B) the amount of the aggregate of the 2009 Repayment Instalments then outstanding and such amount shall be applied in accordance with paragraph (d) of Clause 6.4 (*Effect of cancellation and prepayment on scheduled repayments*).

(ii) If there has been an Optional Securities Issuance, the Company shall prepay the outstanding Loans in the amount of any Securities Issuance Proceeds resulting from such Optional Securities Issuance, in an amount equal to the lesser of (A) such Securities Issuance Proceeds (provided that the amount to be applied pursuant to this subparagraph (b)(ii)(a) shall not in any circumstances exceed an amount equal to US$2,100,000,000 minus the amount of the commitments pursuant to the Rinker Extension (or, as applicable, the amount of the commitments pursuant to the Parallel Facility) multiplied by 66.66/100); and (B) the amount of the aggregate of the 2010 Repayment Instalments then outstanding and such amount shall be applied in accordance with paragraph (e) of Clause 6.4 (*Effect of cancellation and prepayment on scheduled repayments*).

(c) Any prepayment made under this Clause 8.7 shall occur either:

(i) where the last day of the current Interest Period falls more than 30 days from the date of receipt of the relevant Securities Issuance Proceeds, on the last day of the Interest Period; and

(ii) where the last day of the current Interest Period falls fewer than 30 days from the date of receipt of the relevant Securities Issuance Proceeds, the date falling not later than 30 days after the last day of that Interest Period.

(d) A prepayment made under this Clause 8.7 shall be applied between Facility A and Facility B in equal proportions (when compared to, respectively, the aggregate of the Facility A Loans outstanding immediately prior to such prepayment and the aggregate of the Facility B Loans outstanding immediately prior to such prepayment) and shall reduce the Repayment Instalments in the manner contemplated by, in the case of a Reasonable Endeavours Securities Issuance, paragraph (d) and in the case of an Optional Securities Issuance, paragraph (e) of Clause 6.4 (*Effect of cancellation and prepayment on scheduled repayments*).

8.8 **Restrictions**

(a) Any notice of cancellation or prepayment given by any Party under this Clause 8 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

(b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs (if any), without premium or penalty.

(c) Unless a contrary indication appears in this Agreement, any part of Facility A or Facility B which is prepaid may not be re-borrowed in accordance with the terms of this Agreement.

(d) No Borrower shall repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

(e) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

(f) If the Facility Agent receives a notice under this Clause 8 it shall promptly forward a copy of that notice to either the relevant Borrower or the affected Lenders, as appropriate.

(g) On the prepayment or repayment of any principal amount to a Lender in accordance with the terms of this Agreement, the Commitment of that Lender will be automatically cancelled by a corresponding amount as a result of that prepayment or repayment.

SECTION 5
COSTS OF UTILISATION

9. INTEREST

9.1 Calculation of interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

(a) Margin;

(b) LIBOR or, in relation to any Loan in euro, EURIBOR; and

(c) Mandatory Cost, if any.

9.2 Payment of interest

On the last day of each Interest Period relating to a Loan each Borrower shall pay accrued interest on the Loan to which that Interest Period relates (and, if the Interest Period is longer than six Months, on the dates falling at six Monthly intervals after the first day of that Interest Period).

9.3 Default interest

(a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is two per cent higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration of one Month. Any interest accruing under this Clause 9.3 shall be immediately payable by the Obligor on demand by the Facility Agent.

(b) If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:

(i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and

(ii) the rate of interest applying to the overdue amount during that first Interest Period shall be two per cent. higher than the rate which would have applied if the overdue amount had not become due.

(c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

9.4 Notification of rates of interest

The Facility Agent shall promptly notify the Lenders and the relevant Borrower of the determination of a rate of interest under this Agreement.

10. INTERESTPERIODS

10.1 Selection of Interest Periods

(a) The Company may select an Interest Period for a Loan in the Utilisation Request for that Loan or (if the Loan has already been borrowed) in a Selection Notice.

(b) Each Selection Notice for a Loan is irrevocable and must be delivered to the Facility Agent by the Borrower not later than the Specified Time.

(c) If the Borrower fails to deliver a Selection Notice to the Facility Agent in accordance with paragraph (b) above, the relevant Interest Period will be one Month.

(d) Subject to this Clause 10, the Company may select an Interest Period of one, two, three or six Months, or any other period agreed between the Company and the Facility Agent (acting on the instructions of all the Lenders participating in the relevant Facility).

(e) An Interest Period for a Loan shall not extend beyond the Termination Date applicable to the Facility under which the Loan was made.

(f) Each Interest Period for a Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.

10.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

10.3 Consolidation and division of Loans

(a) Subject to paragraph (b) below, if two or more Interest Periods:

(i) relate to either Facility A Loans or Facility B Loans; and

(ii) end on the same date;

those Facility A Loans or, as the case may be, Facility B Loans will, unless the Borrower specifies to the contrary in the Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Facility A Loan or, as the case may be, Facility B Loan on the last day of the Interest Period.

(b) Subject to Clause 4.3 (*Maximum number of Loans*) and Clause 5.3 (*Amount*), if the Borrower requests in a Selection Notice that a Loan be divided into two or more Loans, that Loan will, on the last day of its Interest Period, be so divided into the amounts specified in that Selection Notice, being an aggregate amount equal to the amount of the Loan immediately before its division.

11. CHANGES TO THE CALCULATION OF INTEREST

11.1 Absence of quotations

Subject to Clause 11.2 (*Market disruption*), if LIBOR or, if applicable, EURIBOR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by the Specified Time on the Quotation Day, the applicable LIBOR or EURIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

11.2 **Market disruption**

(a) If a Market Disruption Event occurs in relation to a Loan for any Interest Period, then the rate of interest on each Lender's share of that Loan for the Interest Period shall be the rate per annum which is the sum of:

(i) the Margin;

(ii) the rate notified to the Facility Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in that Loan from whatever source it may reasonably select; and

(iii) the Mandatory Cost, if any, applicable to that Lender's participation in that Loan.

(b) In this Agreement "**Market Disruption Event**" means:

(i) at or about noon on the Quotation Day for the relevant Interest Period the Screen Rate not being available and none or only one of the Reference Banks supplying a rate to the Facility Agent to determine LIBOR or, if applicable, EURIBOR for the relevant currency and Interest Period; or

(ii) before close of business in London on the Quotation Day for the relevant Interest Period, the Facility Agent receiving notifications from a Lender or Lenders (in either case whose participations in a Loan exceed 50 per cent. of that Loan) that the cost to it or them of obtaining matching deposits in the Relevant Interbank Market would be in excess of LIBOR or, if applicable, EURIBOR.

11.3 **Alternative basis of interest or funding**

(a) If a Market Disruption Event occurs and the Facility Agent or the Company so requires, the Facility Agent and the Company shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest in respect of the relevant Loan.

(b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders participating in the relevant Loan and the Company, be binding on all Parties.

11.4 **Break Costs**

(a) Each Borrower shall, within three Business Days of demand by a Lender, pay to that Lender its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by that Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.

(b) Each Lender shall, as soon as reasonably practicable after a demand by the Facility Agent, provide a certificate confirming in reasonable detail the amount of its Break Costs for any Interest Period in which they accrue.

12. **FEES**

12.1 **Up-front Fee**

The Company shall pay to the relevant Finance Parties an up-front fee in the amount and at the times agreed in the relevant Fee Letter.

12.2 **Agency fee**

The Company shall pay to (or procure payment to) the Facility Agent (for its own account) an agency fee in the amount and at the times agreed in the relevant Fee Letter.

SECTION 6
ADDITIONAL PAYMENT OBLIGATIONS

13. **TAX GROSS-UP AND INDEMNITIES**

13.1 **Definitions**

(a) In this Clause 13:

"**Protected Party**" means a Finance Party which is or will be subject to any liability or required to make any payment, for or on account of Tax, in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

"**Qualifying Lender**" means a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document and is:

(i) a legal person or entity (including, for the avoidance of doubt, any securitisation trust or fund) habitually resident for taxation purposes in a Qualifying State which is not acting through a territory considered as a tax haven pursuant to Spanish laws and regulations or through a permanent establishment in Spain; or

(ii) a legal person or entity (including, for the avoidance of doubt, any securitisation trust or fund) which, as a result of any applicable double taxation treaty, is entitled to receive any payments made by a Borrower to such legal person or entity hereunder without any deduction or withholding for or on account of Tax; or

(iii) a Domestic Lender.

"**Qualifying State**" means a member state of the European Union (other than Spain).

"**Tax Credit**" means a credit against, relief or remission from, or repayment of, any Tax.

"**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment made under a Finance Document.

"**Tax Payment**" means either the increase in a payment made by an Obligor to a Finance Party under Clause 13.2 (*Tax gross-up*) or a payment under Clause 13.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 13 a reference to " **determines**" or "**determined**" means a determination made in the absolute good faith discretion of the person making the determination.

13.2 **Tax gross-up**

(a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law or regulation.

(b) The Company or a Lender shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. If the Facility Agent receives such notification from a Lender it shall notify the Company and that Obligor.

(c) If a Tax Deduction is required by law or regulation to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due and payable if no Tax Deduction had been required.

(d) An Obligor is not required to make an increased payment to a Lender under paragraph (c) above for a Tax Deduction in respect of Tax imposed by Spain from a payment of interest on a Loan, if on the date on which the payment falls due:

(i) the payment could have been made to the relevant Lender without a Tax Deduction if it was a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or treaty, or any published practice or concession of any relevant taxing authority; or

(ii) the relevant Lender is a Qualifying Lender under paragraph (ii) of the definition of "Qualifying Lender" and the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without any Tax Deduction if the Lender had complied with its obligations under paragraph (g) below.

(e) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law or regulation.

(f) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Facility Agent for the Finance Party entitled to the payment an original receipt (or certified copy thereof) or if unavailable such other evidence as is reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

(g) A Lender that is a Qualifying Lender under paragraph (ii) of the definition of "Qualifying Lender" and each Obligor which is required to make a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.

(h) Each Original Lender confirms that it is a Qualifying Lender.

13.3 **Tax indemnity**

(a) The Company shall (within five Business Days of demand by the Facility Agent) pay to a Protected Party an amount equal to the amount of any Tax assessed on that Protected Party (together with any interest, costs or expenses payable, directly or indirectly, or incurred in connection therewith) in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

(b) Paragraph (a) of this Clause 13.3 shall not apply:

(i) with respect to any Tax assessed on a Finance Party:

(A) under the laws and regulations of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for Tax purposes; or

(B) under the laws and regulations of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or

(ii) to the extent a loss, liability or cost:

(A) is compensated for by an increased payment under Clause 13.2 (*Tax gross-up*); or

(B) would have been compensated for by an increased payment under Clause 13.2 (*Tax gross-up*) but was not so compensated solely because one of the exclusions in paragraph (d) of Clause 13.2 (*Tax gross-up*) applied.

(c) A Protected Party making, or intending to make a claim pursuant to paragraph (a) of this Clause 13.3 shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Company.

(d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 13.3, notify the Facility Agent.

13.4 **Tax Certificates**

(a) Without prejudice to the other provisions of this Clause 13, in relation to any exemption from or application of a rate lower than that of general application pursuant to any legislation in Spain or any double taxation treaty, or pursuant to any other cause relating to residence status, any Lender which is not a Domestic Lender shall supply the Company, through the Facility Agent, prior to the interest payment date with a certificate of residence issued by the pertinent fiscal administration, in the case of a Qualifying Lender which is not a Domestic Lender, accrediting such Qualifying Lender as resident for Tax purposes in a Qualifying State or, as the case may be, accrediting such Lender as resident for Tax purposes in a State which has signed and ratified a double taxation treaty with Spain.

(b) As such certificates referred to in paragraph (a) of this Clause 13.4 are, at the date hereof, valid only for a period of one year, each such Lender will be required to so supply a further such certificate upon expiry of the previous certificate in relation to any further payment of interest.

(c) If any Lender which has supplied a certificate under paragraph (a) of this Clause 13.4 becomes aware that any information contained in that certificate is not correct in all material respects throughout the period for which that certificate is valid, it shall, as soon as practicable, supply the Facility Agent with details of that matter, following which the Facility Agent shall supply those details to the Company, and, if appropriate, that Lender shall promptly supply a new certificate pursuant to paragraph (a) of this Clause 13.4.

13.5 **Tax Credit**

If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

(a) a Tax Credit is attributable either to an increased payment of which that Tax Payment forms part, or to that Tax Payment; and

(b) that Finance Party has obtained, utilised and retained that Tax Credit,

the Finance Party shall pay an amount to the Obligor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

13.6 **Stamp Taxes**

The Company shall pay and, within five Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document except for any such Tax payable in connection with the entering into of a Transfer Certificate.

13.7 **Value Added Tax**

(a) All consideration expressed to be payable under a Finance Document by any Party to a Finance Party shall be deemed to be exclusive of any amount in respect of VAT. If VAT is chargeable on any supply made by any Finance Party to any Party in connection with a Finance Document, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the VAT and such Finance Party shall promptly provide an appropriate VAT invoice to such Party.

(b) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify that Finance Party against all amounts in respect of VAT incurred by the Finance Party in respect of the costs or expenses to the extent that the Finance Party reasonably determines that it is not entitled to credit or repayment of the VAT.

14. **INCREASED COSTS**

14.1 **Increased costs**

(a) Subject to Clause 14.2 *(Increased cost claims)* and Clause 14.3 (*Exceptions*) the Company shall, within three Business Days of a demand by the Facility Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:

(i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or

(ii) compliance with any law or regulation,

in each case made after the date of this Agreement.

(b) In this Agreement "**Increased Costs**" means, without duplication:

(i) a reduction in the rate of return from a Facility or on a Finance Party's (or its Affiliate's) overall capital;

(ii) an additional or increased cost; or

(iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitments or funding or performing its obligations under any Finance Document.

14.2 **Increased cost claims**

(a) A Finance Party intending to make a claim pursuant to Clause 14.1 (*Increased costs*) shall notify the Facility Agent of the event giving rise to the claim and a calculation evidencing in reasonable detail the amount of such Increased Costs to be claimed by such Finance Party, following which the Facility Agent shall promptly notify the Company and provide the Company with such calculations.

(b) Each Finance Party shall, as soon as practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Increased Costs.

14.3 **Exceptions**

(a) Clause 14.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

(i) attributable to a Tax Deduction required by law or regulation to be made by an Obligor;

(ii) compensated for by Clause 13.3 (*Tax indemnity)* (or would have been compensated for under Clause 13.3 (*Tax indemnity)* but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 13.3 (*Tax indemnity*) applied);

(iii) compensated for by the payment of the Mandatory Cost; or

(iv) attributable to the breach by the relevant Finance Party or its Affiliates of any law or regulation; or

(v) attributable to the implementation of or compliance with the "International Convergence of Capital Measurements and Capital Standards - a Revised

Framework" published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement ("**Basel II**") or any other law or regulation that implements Basel II (whether such implementation or compliance is by a government, governmental regulator, Finance Party or an Affiliate thereof).

(b) In this Clause 14.3, a reference to a "**Tax Deduction**" has the same meaning given to the term in Clause 13.1 *(Definitions)*.

15. OTHER INDEMNITIES

15.1 Currency indemnity

(a) If any sum due from an Obligor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

(i) making or filing a claim or proof against that Obligor; or

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

15.2 Other indemnities

(a) Each Obligor shall, within five Business Days of demand, indemnify each Finance Party against any cost, loss or liability not otherwise compensated under the provisions of this Agreement and excluding any lost profits, consequential or indirect damages (other than interest or default interest) incurred by that Finance Party as a result of its Commitment or the making of any Loan under the Finance Documents as a result of:

(i) the occurrence of any Event of Default;

(ii) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 28 (*Sharing among the Finance Parties*);

(iii) funding, or making arrangements to fund, its participation in a Loan requested by the Company in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or

(iv) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Company.

15.3 **Indemnity to the Facility Agent**

The Company shall (or shall procure that another Obligor will) promptly indemnify the Facility Agent against any cost, loss or liability directly related to this Agreement incurred by the Facility Agent (acting reasonably and otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct) as a result of:

(a) investigating any event which it reasonably believes (acting prudently and, if possible, following consultation with the Company) is a Default; or

(b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

16. MITIGATION BY THE LENDERS

16.1 **Mitigation**

(a) Each Finance Party shall, in consultation with the Company, take all reasonable steps to mitigate any circumstances which arise after the date of this Agreement and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 8.1 (*Illegality of a Lender*), Clause 13 (*Tax Gross-up and Indemnities)* or Clause 14 (*Increased Costs)* or Schedule 4 *(Mandatory Cost Formulae)* including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

(b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

16.2 **Limitation of liability**

(a) The Company shall (or shall procure that another Obligor will) indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 16.1 (*Mitigation*).

(b) A Finance Party is not obliged to take any steps under Clause 16.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

17. COSTS AND EXPENSES

17.1 **Transaction expenses**

(a) The Company shall within 15 days of receipt of a demand (and delivery of the relevant receipts, invoices or other documentary evidence), pay the Facility Agent and each Documentation Agent the amount of all costs and expenses (including reasonable legal fees) reasonably incurred by any of them in connection with the negotiation, preparation, printing and execution of the Finance Documents.

(b) The Company shall within 15 days of receipt of demand, pay the Facility Agent and each Documentation Agent the amount of all documented costs and expenses (including reasonable legal fees) reasonably incurred by any of them in connection with the negotiation, preparation, printing and execution of any Finance Documents executed after the date of this Agreement.

17.2 **Amendment costs**

If (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 29.9 (*Change of currency)*, the Company shall, within five Business Days of demand, reimburse the Facility Agent, the Documentation Agent and each Lender for the amount of all costs and expenses (including legal fees, but in this case, only the reasonable legal fees of one law firm in each relevant jurisdiction acting on behalf of all the Lenders) reasonably incurred by such parties in responding to, evaluating, negotiating or complying with that request or requirement.

17.3 **Enforcement costs**

The Company shall, within three Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

SECTION 7
GUARANTEE

18. GUARANTEE AND INDEMNITY

18.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

(a) guarantees to each Finance Party punctual performance by each Borrower of that Borrower's obligations under the Finance Documents;

(b) undertakes with each Finance Party that whenever a Borrower does not pay any amount when due under or in connection with any Finance Document, it shall immediately on demand pay that amount as if it was the principal obligor; and

(c) indemnifies each Finance Party immediately on demand against any cost, loss or liability suffered by that Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that Finance Party would otherwise have been entitled to recover.

18.2 Continuing Guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by each Borrower under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part. Except as permitted by Clause 25 (*Changes to the Obligors*) or Clause 35.2 (*Exceptions*), each Guarantor hereby further agrees that its guarantee may not be revoked in whole or in part.

18.3 Reinstatement

If any payment by any Borrower or any discharge given by a Finance Party (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

(a) the liability of each Obligor shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

(b) each Finance Party shall be entitled to recover the value or amount of that security or payment from each Obligor, as if the payment, discharge, avoidance or reduction had not occurred.

18.4 Waiver of defences

The obligations of each Guarantor under this Clause 18 will not be affected by an act, omission, matter or thing which, but for this Clause 18, would reduce, release or prejudice any of its obligations under this Clause 18 (without limitation and whether or not known to it or any Finance Party) including:

(a) any time, waiver or consent granted to, or composition with, any Borrower or other person;

(b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;

(e) any amendment (however fundamental) or replacement of a Finance Document or any other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or

(g) any insolvency or similar proceedings.

18.5 **Immediate recourse**

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from a Guarantor under this Clause 18.5. This waiver applies irrespective of any law or regulation or any provision of a Finance Document to the contrary.

Each Guarantor also waives any right to be sued jointly with other Guarantors.

18.6 **Appropriations**

Until all amounts which may be or become payable by a Borrower under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

(a) refrain from applying or enforcing any other monies, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any monies received from a Guarantor or on account of such Guarantor's liability under this Clause 18.6,

provided that the operation of this Clause 18.6 shall not be deemed to create any Security.

18.7 **Deferral of Guarantors' rights**

Until all amounts which may be or become payable by a Borrower under or in connection with the Finance Documents have been irrevocably paid in full and unless the Facility Agent (acting on the instructions of the Majority Lenders) otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents:

(a) to be indemnified by a Borrower;

(b) to claim any contribution from any other guarantor of any Borrower's obligations under the Finance Documents; and/or

(c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party.

18.8 **Additional security**

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

18.9 **Limitation on U.S. Guarantors**

Any term or provision of this Clause 18 or any other term in this Agreement or any Finance Document notwithstanding, the maximum aggregate amount of the obligations for which any U.S. Guarantor shall be liable under this Agreement shall in no event exceed an amount equal to the largest amount that would not render such U.S. Guarantor's obligations under this Agreement, subject to avoidance under applicable United States federal or state fraudulent conveyance laws.

SECTION 8
REPRESENTATION, UNDERTAKINGS AND EVENTS OF DEFAULT

19. REPRESENTATIONS

Each Obligor makes the representations and warranties set out in this Clause 19 to each Finance Party.

19.1 Status

(a) It is a corporation, duly organised and validly existing under the laws and regulations of its jurisdiction of incorporation.

(b) It has the power to own its assets and carry on its business as it is being conducted.

19.2 Binding obligations

The obligations expressed to be assumed by it in each Finance Document are, subject to any reservations which are specifically referred to in any Legal Opinion, legal, valid, binding and enforceable obligations.

19.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

(a) any law or regulation applicable to it;

(b) its constitutional documents; or

(c) any agreement or instrument binding upon it or any of its assets.

Assuming that no Lender (or any person with whom a Lender has entered into a sub-participation agreement) is a U.S. Lender, no part of the proceeds of any Loans will be used in a manner that would cause the Loans to be in violation of Regulation U or X of the Board of Governors of the Federal Reserve System of the United States.

19.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

19.5 Validity and admissibility in evidence

All Authorisations required or desirable:

(a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and

(b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect or will be obtained in accordance with the provisions of this Agreement.

19.6 **Governing law and enforcement**

(a) The choice of English law as the governing law of the Finance Documents will be recognised and enforced in its jurisdiction of incorporation subject to any reservations which are specifically referred to in any Legal Opinion.

(b) Any judgment obtained in England in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation, subject to any reservations which are specifically referred to in any Legal Opinion.

19.7 **Deduction of Tax**

Subject to the completion of any procedural formality and any reservations contained in any legal opinion provided to the Agent under Clause 4.1 (*Initial Conditions Precedent*) or Clause 25 (*Changes to the Obligors*), it is not required under the laws and regulations of its jurisdiction of incorporation to make any deduction for or on account of Tax from any payment it may make under any Finance Document to any Qualifying Lender.

19.8 **No filing or stamp taxes**

Under the laws and regulations of its jurisdiction of incorporation it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar Tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents.

19.9 **No default**

(a) No Default is continuing or might reasonably be expected to result from the making of any Utilisation.

(b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or its Subsidiaries') assets are subject which has or is reasonably likely to have a Material Adverse Effect.

19.10 **No misleading information**

All material written information supplied by any member of the Group in relation to the Finance Documents is true, complete and accurate in all material respects as at the date it was given or stated to be given and is not misleading in any material respect.

19.11 **Financial statements**

(a) Its Original Financial Statements were prepared in accordance with GAAP consistently applied and are complete and accurate in all material respects.

(b) Its Original Financial Statements fairly represent in all material respects its financial condition and operations during the relevant financial year.

(c) For the purposes of any repetition of the representation contained in paragraphs (a) and (b) of this Clause 19.11 (pursuant to Clause 19.20 (*Times on which representations are made*)) the representations will be made in respect of the latest available audited consolidated annual financial statements of each Obligor, instead of the Original Financial Statements.

19.12 **Pari passu ranking**

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law or regulation applying to companies generally.

19.13 **No proceedings pending or threatened**

Except as disclosed in Schedule 14 (*Proceedings pending or threatened*), no litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which (i) are likely to be adversely determined and which, if so determined, would be reasonably likely to have a Material Adverse Effect or (ii) (where not of a frivolous or vexatious nature or where not dismissed within 30 days of commencement) purport to affect the legality, validity or enforceability of any of the obligations under the Finance Documents, have been started or threatened against any Obligor or any Material Subsidiary.

19.14 **No winding-up**

No legal proceedings or other procedures or steps have been taken or, to the Company's knowledge after reasonable enquiry, are being threatened, in relation to the winding-up, dissolution, administration or reorganisation of any Obligor or Material Subsidiary (other than a solvent liquidation or reorganisation of any Material Subsidiary which is not an Obligor).

19.15 **Material Adverse Change**

Except as disclosed in the bank presentations made by the Company to Lenders in New York on 13 November 2008 and in Madrid on 14 November 2008, and the guidance relating to the fourth financial quarter of 2008 published by CEMEX Parent on 15 December 2008 on its web page, there has been no material adverse change in the Company's business, condition (financial or otherwise), operations, performance or assets taken as a whole (or the business, consolidated condition (financial or otherwise) operations, performance or the assets generally of the Group taken as a whole) since the date of the Company's semi annual consolidated financial statements for the half year ended 30 June 2008.

19.16 **Environmental compliance**

Each member of the Group has performed and observed in all material respects all Environmental Law, Environmental Permits and all other material covenants, conditions, restrictions or agreements directly or indirectly concerned with any contamination, pollution or waste or the release or discharge of any toxic or hazardous substance in connection with any real property which is or was at any time owned, leased or occupied by any member of the Group or on which any member of the Group has conducted any activity where failure to do so might reasonably be expected to have a Material Adverse Effect.

19.17 **Environmental Claims**

No Environmental Claim has been commenced or (to the best of its knowledge and belief) is threatened against any member of the Group where that claim would be reasonably likely, if finally determined against that member of the Group, to have a Material Adverse Effect.

19.18 **No Immunity**

In any proceedings taken in its jurisdiction of incorporation in relation to this Agreement, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

19.19 **Private and commercial acts**

Its execution of the Finance Documents constitutes, and its exercise of its rights and performance of its obligations hereunder will constitute, private and commercial acts done and performed for private and commercial purposes.

19.20 **Times on which representations are made**

(a) All the representations and warranties in this Clause 19 are made to each Finance Party on the date of this Agreement.

(b) The Repeating Representations are deemed to be made by each Obligor to each Finance Party on the date of each Utilisation Request and on the first day of each Interest Period.

(c) The Repeating Representations and each of the representations and warranties set out in Clause 19.5 (*Validity and admissibility in evidence*), Clause 19.6 (*Governing law and enforcement*), Clause 19.9 (*No default*) and Clause 19.10 (*No misleading information*) (in respect only of information given by it) are deemed to be made by each Additional Guarantor to each Finance Party on the day on which it becomes an Additional Guarantor.

(d) Each representation or warranty deemed to be made after the date of this Agreement shall be made by reference to the facts and circumstances existing at the date the representation or warranty is made.

20. **INFORMATION UNDERTAKINGS**

The undertakings in this Clause 20 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

20.1 **Financial statements**

The Company shall supply to the Facility Agent:

(a) (subject as below) as soon as the same become available, but in any event within 180 days after the end of its or, as the case may be, the relevant Obligor's respective financial years:

(i) the Company's audited consolidated and unconsolidated financial statements for that financial year; and

(ii) each other Obligor's (if any) respective audited consolidated and unconsolidated financial statements for that financial year (except that, with respect to the financial year ended 31 December 2008 only, CEMEX Australia may provide annual audited unconsolidated financial statements for itself and Rinker); and

(b) as soon as the same become available, but in any event within 90 days after the end of the first half of each of its financial years, its unaudited consolidated financial statements for that period.

20.2 **Compliance Certificate**

(a) The Company shall supply to the Facility Agent, with each set of consolidated financial statements delivered pursuant to paragraphs (a)(i) and (b) of Clause 20.1 (*Financial statements*), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 21 (*Financial Covenants*) as at the date as at which those financial statements were drawn up.

(b) Each Compliance Certificate shall be signed by an Authorised Signatory of the Company and, if required to be delivered with the consolidated financial statements delivered pursuant to paragraph (a)(i) of Clause 20.1 (*Financial statements*), the Company shall provide to the Facility Agent, by no later than 180 days after the end of the relevant financial year, a letter from the Company's auditors or any other internationally recognised accounting firm that is approved by the Facility Agent confirming that the numbers used in the Compliance Certificate calculations have been correctly extracted from the consolidated financial statements of the Company.

20.3 **Requirements as to financial statements**

(a) Each set of financial statements delivered by the Company pursuant to Clause 20.1 (*Financial statements*) shall be certified by an Authorised Signatory of the relevant company as fairly representing in all material respects its financial condition as at the date as at which those financial statements were drawn up.

(b) The Company will prepare its audited and consolidated financial statements for Financial Periods ending on or after 31 December 2008 in accordance with the New Spanish GAAP (notwithstanding that the Original Financial Statements were prepared on the basis of other accounting practices) and (without prejudice to the requirements relating to the signature of a Compliance Certificate contained in paragraph (b) of Clause 20.2 (*Compliance Certificate*)):

(i) in respect of the Financial Period ending 31st December 2008, the Company shall, in order to test compliance with the financial covenants in Clause 21 (*Financial Covenants*):

(A) prepare, in relation to the relevant components which are used in the definitions contained in Clause 21.1 (*Financial definitions*) for the relevant Financial Period, a reconciliation of those components with the corresponding components that were prepared in accordance with GAAP and accounting practices applicable for the Financial Period ending 31 December 2007;

(B) request an Affiliate of its auditors to concur with the procedure adopted for the above reconciliation; and

(C) request the auditors to provide a negative assurance on the figures on which the reconciliation has been based being, for these purposes, a confirmation that those figures have been extracted from the consolidated financial statements or from the accounting records of the Company; and

(ii) subject to paragraph (d) below, in respect of any Financial Periods beginning on or after 1 January 2009, the Company shall, in order to test compliance with the financial covenants in Clause 21 (*Financial Covenants*):

(A) prepare, in relation to the relevant components which are used in the definitions contained in Clause 21.1 (*Financial definitions*) for the relevant Financial Period, a reconciliation of those components with the corresponding components that were prepared in accordance with GAAP and accounting practices applicable for the period ending 31 December, 2007; and

(B) have an international finance director of the Company or CEMEX Parent deliver to the Facility Agent a description of necessary changes and reasonably sufficient information to enable the Lenders to determine whether the financial covenants in Clause 21 (*Financial Covenants*) have been complied with,

and the Company will then use the relevant components in paragraphs (b)(i)(A) or (b)(ii)(A) above (as the case may be), for the calculations of EBITDA, Adjusted EBITDA, Net Borrowings and Finance Charges to test the financial covenant ratios contained in Clause 21.2 (*Financial condition*) and the calculation of Subsidiary Financial Indebtedness under Clause 22.17 (*Subsidiary Financial Indebtedness incurrence*).

(c) The Company shall procure that each set of financial statements delivered pursuant to Clause 20.1 (*Financial statements)* is prepared on the basis set out in paragraph (b) above unless, in relation to any set of financial statements, it notifies the Facility Agent that there has been a change in GAAP, or the accounting practices or reference periods and, unless amendments are agreed in accordance with paragraph (d) of this Clause 20.3, its auditors or any other internationally recognised accounting firm that is approved by the Facility Agent (or, if appropriate, the auditors of the relevant Obligor or any other internationally recognised accounting firm in respect of the Obligor that is approved by the Facility Agent) or, in the case of any financial statements referring to a period after 31 December, 2008, an international finance director of it or CEMEX Parent (or, if appropriate, a vice president or treasurer of the relevant Obligor) deliver to the Facility Agent:

(i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which that Obligor's Original Financial Statements were prepared; and

(ii) sufficient information, in form and substance as may be reasonably required by the Facility Agent, to enable the Lenders to determine whether Clause 21 *(Financial covenants*) has been complied with and make an accurate comparison between the financial position indicated in those financial statements and that Obligor's Original Financial Statements.

(d) If the Company adopts International Accounting Standards or, unless the procedure in paragraph (c) above is utilised, there are changes to GAAP, or the accounting practices or reference periods or, in respect of any Financial Periods beginning on or after 1 January 2009, the Company and the Facility Agent shall, at the Company's request, negotiate in good faith with a view to agreeing such amendments to the financial covenants in Clause 21 (*Financial Covenants*) and the ratios used to calculate the Margin and, in each case, the definitions used therein as may be necessary to ensure that the criteria for evaluating the Group's financial condition grant to the Lenders protection equivalent to that which would have been enjoyed by them had the Company not adopted International Accounting Standards or had there not been a change in GAAP, or the accounting practices or reference periods (subject to compliance with paragraph (b) above). Any amendments agreed will take effect on the date agreed between the Facility Agent and the Company subject to the consent of the Majority Lenders. If no such agreement is reached within 90 days of the Company's request, the Company will remain subject to the obligation to deliver the information specified in paragraph (b) of this Clause 20.3 and the financial covenants in Clause 21 (*Financial Covenants*) and the ratios used to calculate the Margin shall be based on the information delivered.

20.4 **Information: miscellaneous**

The Company shall supply to the Facility Agent:

(a) all documents dispatched by the Company to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;

(b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, or which, to the Company's knowledge after reasonable enquiry, are being threatened or are pending and are likely to be adversely determined against any member of the Group which, in the reasonable opinion of the Company, are not spurious or vexatious, and which might, if adversely determined, have a Material Adverse Effect; and

(c) promptly, such further information regarding the financial condition, assets and business of any Obligor or member of the Group as the Facility Agent (or any Lender through the Facility Agent) may reasonably request other than any information the disclosure of which would result in a breach of any applicable law or regulation or confidentiality agreement entered into in good faith by any member of the Group **provided that** the Company shall use reasonable efforts to be released from any such confidentiality agreement.

20.5 **Notification of default**

(a) Each Obligor shall notify the Facility Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).

(b) Promptly upon a request by the Facility Agent, the Company shall supply to the Facility Agent a certificate signed by an Authorised Signatory on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

20.6 **"Know your client" checks**

(a) Each Obligor shall promptly upon the request of the Facility Agent or any Lender and each Lender shall promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective New Lender) in order for the Facility Agent, such Lender or any prospective New Lender to carry out and be satisfied with the results of all necessary " **know your client**" or other checks in relation to the identity of any person that it is required by law to carry out in relation to the transactions contemplated in the Finance Documents. For the avoidance of doubt, a Lender will have no obligation towards the Facility Agent to evidence that it has complied with any "**know your client**" or similar checks in relation to the Obligors.

(b) The Company shall, by not less than five Business Days' written notice to the Facility Agent, notify the Facility Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Obligor pursuant to Clause 25 (*Changes to the Obligors*).

(c) Following the giving of any notice pursuant to paragraph (b) above, the Company shall promptly upon the request of the Facility Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective New Lender) in order for the Facility Agent, such Lender or any prospective New Lender to carry out and be satisfied with the results of all necessary " **know your client**" or other checks in relation to the identity of any person that it is required by law to carry out in relation to the accession of such Additional Obligor to this Agreement.

21. **FINANCIAL COVENANTS**

21.1 **Financial definitions**

In this Clause 21:

"**Adjusted EBITDA**" means, for any Relevant Period, the sum of (a) EBITDA and (b) with respect to any business acquired during such period, the sum of (i) the operating income and (ii) depreciation and amortization expense for such business, as determined in accordance with GAAP for such Relevant Period (the "**Acquired Business Amount**"), **provided that** the Company need only make the adjustments contemplated by "(b)" above if the operating income and depreciation and amortization expense of the acquired business in the 12 Months prior to its acquisition amount to US$10,000,000 or more.

"**CEMEX Capital Contributions**" means (i) contributions in cash or Contributions in Kind to the capital of the Company or any Subsidiary of the Company or (ii) amounts made available to the Company or any Subsidiary of the Company in a form which satisfies the Spanish law requirements of *préstamos participativos* or which fall within the definition of Subordinated

Debt. Any such contributions in cash or Contributions in Kind or amounts made available as *préstamos participativos* or Subordinated Debt are to be made by CEMEX Parent or any of its Subsidiaries which are not at the time of such contribution or the making available of such amounts a wholly-owned Subsidiary of the Company or a Subsidiary of the Company.

"**Contributions in Kind**" means a contribution that constitutes delivery of shares of any directly or indirectly owned Subsidiary of CEMEX Parent which at the time immediately prior to the contribution (i) is not a wholly-owned Subsidiary of the Company or (ii) is not a Subsidiary of the Company, **provided that**:

(a) in each case in relation to such Subsidiary:

(i) substantially all of its assets are in the form of cash or cash equivalents;

(ii) it has no Financial Indebtedness in place; and

(iii) after the making of any such contribution in kind, the Company has the ability to control directly or indirectly the affairs of such Subsidiary; and

(b) such Contribution in Kind shall be limited to the amount of any cash or cash equivalents transferred directly or indirectly as part of that contribution.

"**EBITDA**" means, for the Relevant Period immediately preceding the date on which it is to be calculated, operating profit plus annual depreciation for fixed assets plus annual amortisation of intangible assets plus annual amortisation of start-up costs of the Group plus dividends received from non-consolidated companies and from companies consolidated by the equity method plus an amount equal to the amount of CEMEX Capital Contributions made during the period immediately preceding the date on which it is to be calculated (up to an amount equal to the amount of Royalty Expenses made in such period) plus the income recorded during such period for the use of CO_2 Emission Rights (to the extent not already included in the calculation of operating profit). Such calculation shall be made in accordance with GAAP.

"**Finance Charges**" means for any Relevant Period, the sum (without duplication) of (a) all interest expense in respect of Financial Indebtedness (including imputed interest on Capital Leases) for such period plus (b) all debt discount and expense (including, without limitation, expenses relating to the issuance of instruments representing Financial Indebtedness) amortized during such period plus (c) amortization of discounts on sales of receivables during such period plus (d) all factoring charges for such period plus (e) all guarantee charges for such period, all determined on a consolidated basis in respect of the Group and in accordance with GAAP.

"**Guarantees**" means any guarantee or indemnity of Financial Indebtedness of another person (in the case of any indemnity for any specified amount or otherwise in the amount specified in or for which provision has been made in the accounts of the indemnifier) in any form made other than in the ordinary course of business of the guarantor.

"**Intellectual Property Rights**" means all copyrights (including rights in computer software), trade marks, service marks, business names, patents, rights in inventions, registered designs, design rights, database rights and similar rights, rights in trade secrets or other confidential information and any other intellectual property rights and any interests (including by way of licence) in any of the foregoing (in each case whether registered or not and including all applications for the same) which may subsist in any given jurisdiction.

"**Net Borrowings**" means, at any time, the remainder of (a) Total Borrowings of the Group at such time less (b) the aggregate amount of the following items held by the Company and its Subsidiaries at such time: cash on hand, marketable securities, investments in money market funds, banker's acceptances, short-term deposits and other liquid investments.

"**Relevant Period**" means each period of twelve Months ending on the last day of each half of the Company's financial year.

"**Rolling Basis**" means the calculation of a ratio or an amount made at the end of a financial half year in respect of that financial half year and the immediately preceding financial half year.

"**Royalty Expenses**" means expenses incurred by the Company or any of its Subsidiaries to CEMEX Parent or Subsidiary of CEMEX Parent which is not also a member of the Group as (a) consideration for the granting to the Company or any Subsidiary of a licence to use, exploit and enjoy Intellectual Property Rights and any other intangible assets such as, but not limited to, know-how, formulae, process technology and other forms of intellectual and industrial property, whether or not registered, held by CEMEX Parent or any of its Subsidiaries not being a Subsidiary of the Company; or (b) fees, commissions or other amounts accrued in respect of any management contract, services contract, overhead expenses allocation arrangement or any other similar transaction; **provided that** in paragraphs (a) and (b) such amounts shall have been taken into consideration in the calculation of operating profit under Spanish GAAP.

"**Subordinated Debt**" means debt granted on terms that are fair and reasonable and no less favourable than would be obtained in a comparable arms' length transaction by CEMEX Parent or any Subsidiary of CEMEX Parent which is not also a member of the Group to the Company or any of its Subsidiaries on terms such that no payments of principal may be made thereunder (including but not limited to following any winding up, *concurso de acreedores* or other like event of the Company) unless either:

(i) the Facility Agent has confirmed in writing that all amounts outstanding hereunder have been paid in full; or

(ii) the ratio of Net Borrowings to Adjusted EBITDA (calculated in accordance with Clause 21.3 (*Financial testing*)) prior to such repayment is equal to or lower than 2.7:1 and will remain equal to or lower than 2.7:1 after such repayment and no Event of Default under this Agreement has occurred and is continuing or will occur as a result of the repayment of such debt.

"**Total Borrowings**" means without duplication, in respect of any person all Guarantees granted by such person plus all such person's Financial Indebtedness, but excluding (i) any Guarantee or Financial Indebtedness which, notwithstanding falling within the definition of Guarantee or Financial Indebtedness, is not required to be recorded as a liability by that person on its balance sheet (whether consolidated or otherwise) in accordance with generally accepted accounting principles applicable to that person which are in effect as at the time that such Guarantee or Financial Indebtedness is entered into, issued or incurred, (ii) any Subordinated Debt and (iii) any amounts which are made available in a form which satisfies the Spanish law requirements of *préstamos participativos*.

21.2 **Financial condition**

The Company shall ensure that:

(a) in respect of any Relevant Period specified in column 1 below, the ratio of Net Borrowings to Adjusted EBITDA calculated on a Rolling Basis shall be less than or equal to the ratio set out in column 2 below opposite that Relevant Period:

Relevant Period ending on	Ratio
31 December 2008	4.5:1
30 June 2009	4.5:1
31 December 2009	4.5:1
30 June 2010	4.25:1
31 December 2010	3.75:1
30 June 2011*	3.75:1
31 December 2011*	3.5:1

(* if the Extension Option has been exercised); and

(b) in respect of any Relevant Period the ratio of EBITDA to Finance Charges calculated on a Rolling Basis shall be greater than or equal to 3.0:1.

21.3 **Financial testing**

The financial covenants set out in Clause 21.2 (*Financial condition*) shall be tested semi-annually by reference to the Company's consolidated financial statements delivered pursuant to Clause 20.1 (*Financial statements*) and/or each Compliance Certificate delivered pursuant to Clause 20.2 (*Compliance Certificate*).

21.4 **Accounting terms**

All accounting expressions which are not otherwise defined herein shall have the meaning ascribed thereto in GAAP.

21.5 **Correction of FX distortion**

(a) As a result of the market volatility and the depreciation of the Euro against the US Dollar, the Company will, for each Relevant Period ending on or after 31 December 2008 (subject to the proviso below), recalculate any portion of the EBITDA and, if applicable, the Acquired Business Amount, for a particular Relevant Period which is (in each case) denominated in US Dollars, by converting each month's EBITDA amount and, if applicable, Acquired Business Amount, denominated in US Dollars into Euro by applying the Ending Exchange Rate applicable to that Relevant Period for the conversion of US Dollars into Euro, **provided that** the Majority Lenders shall have the option, in respect of any Relevant Period ending after 31 December 2009 (but

not any Relevant Period ending before that date) to decide that the currency volatility recalculations set out in this paragraph (a) are no longer to apply and, if they so decide, the Facility Agent (acting on the instructions of the Majority Lenders) shall notify the Company in writing and from the date of such notice, the currency volatility recalculations set out in this Clause 21.5 shall no longer apply.

(b) The "**Ending Exchange Rate**" means, in respect of a Relevant Period, the exchange rate at the end of that Relevant Period used to calculate any portion of Financial Indebtedness from US Dollars into Euro for the purposes of the calculations of the financial covenants contained in Clause 21 (*Financial Covenants*).

(c) For the avoidance of doubt, that portion of each month's EBITDA and, if applicable, Acquired Business Amount, (of the twelve month period) in Euros which has been converted from US Dollars shall be divided by the exchange rate (the exchange rate from US Dollars to Euro) which has been used by the Company in determining that month's EBITDA and, if applicable, Acquired Business Amount, and then multiplied by the Ending Exchange Rate. The resulting recalculated EBITDA and, if applicable, Acquired Business Amount, will be the sum of each month's recalculated EBITDA and, if applicable, Acquired Business Amount, during the Relevant Period and will be used for the purposes of the testing of the financial covenants in this Clause 21.

21.6 **Conversion or Replacement of *Préstamos Participativos***

The Company or any of its Subsidiaries may convert or replace *préstamos participativos* into or with (as the case may be) Subordinated Debt or shares issued by the Company or any of its Subsidiaries.

22. GENERAL UNDERTAKINGS

The undertakings in this Clause 22 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

22.1 **Authorisations**

Each Obligor shall promptly:

(a) obtain, comply with and do all that is necessary to maintain in full force and effect; and

(b) supply certified copies to the Facility Agent of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document.

22.2 **Preservation of corporate existence**

Subject to Clause 22.10 (*Merger*), each Obligor shall (and the Company shall ensure that each of its Material Subsidiaries shall), preserve and maintain its corporate existence and rights.

22.3 **Preservation of properties**

Each Obligor shall (and the Company shall ensure that each of its Material Subsidiaries shall) maintain and preserve all of its properties that are used in the conduct of its business in good working order and condition (ordinary wear and tear excepted).

22.4 **Compliance with laws and regulations**

(a) Each Obligor shall (and shall procure that each of its Subsidiaries shall) comply in all respects with all laws and regulations to which it may be subject, if failure to so comply would be likely to have a Material Adverse Effect.

(b) The Company shall (and shall procure that each of its Subsidiaries shall) ensure that the levels of contribution to pension schemes are and continue to be sufficient to comply with all its and their material obligations under such schemes and generally under applicable laws (including ERISA) and regulations, except where failure to make such contributions would not reasonably be expected to have a Material Adverse Effect.

22.5 **Notarisation**

(a) Subject to paragraph (b) of this Clause 22.5, the Company shall not (and shall procure that none of its Subsidiaries shall) permit any of its unsecured indebtedness to be notarised as a Spanish Public Document (any such notarisation, a " **Notarisation**"), other than the following permitted Notarisations ("**Permitted Notarisations**"):

(i) Notarisations which are required by applicable law or regulation or which arise by operation of law other than pursuant to any issue of debt securities in accordance with Article 285 of the Spanish Corporations Law (*Ley de Sociedades Anónimas*);

(ii) Notarisations with the prior written consent of the Majority Lenders;

(iii) any Notarisations securing indebtedness the principal amount of which (when aggregated with the principal amount of any other Notarisations other than any Permitted Notarisations under paragraphs (i) or (iii) above) do not exceed US$100,000,000 (or its equivalent in another currency or currencies); and

(iv) any Notarisations relating to indebtedness in respect of any sale and purchase agreement customarily registered in a public register in Spain and payment of which indebtedness is made within seven days of the date of such agreement.

(b) Paragraph (a) of this Clause 22.5 shall not apply if the Company, concurrently with any such Notarisation (not being a Permitted Notarisation) referred to in paragraph (a) of this Clause 22.5 and at its own cost and expense, causes this Agreement to be the subject of a Notarisation.

22.6 **Negative pledge**

The Company shall not (and shall not permit any of its Subsidiaries to), directly or indirectly, create, incur, assume or permit to exist any Security on or with respect to any of its property or assets or those of any Subsidiary, whether now owned or held or hereafter acquired, other than the following Security ("**Permitted Security**") and **provided that** paragraphs (f), (g) and (h) below shall not apply to any Guarantor.

(a) Security for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made;

(b) statutory liens of landlords and liens of carriers, warehousemen, mechanics and materialment incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made;

(c) liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security and any deposits of CEMEX Australia required by law or order of a competent authority in relation to the offer process through which it acquired Rinker;

(d) any attachment or judgment lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(e) Security existing on the date of this Agreement as described in Schedule 10 (*Existing Security*) **provided that** the principal amount secured thereby is not increased without the consent of the Facility Agent (acting on the instructions of the Majority Lenders);

(f) any Security on property acquired by the Company or any of its Subsidiaries after the date of this Agreement that was existing on the date of acquisition of such property **provided that** such Security was not incurred in anticipation of such acquisition; and any Security created to secure all or any part of the payment of the purchase price, or to secure indebtedness incurred or assumed to pay all or any part of the payment of the purchase price, of property acquired by the Company or any of its Subsidiaries after the date of this Agreement, **provided**, **further**, **that** (i) any such Security permitted pursuant to this paragraph (f) shall be confined solely to the item or items of property so acquired (including, in the case of any acquisition of a corporation through the acquisition of more than 50 per cent. of the voting stock of such corporation, the stock and assets of any acquired Subsidiary or acquiring Subsidiary by which the acquired Subsidiary shall be directly or indirectly controlled) and, if required by the terms of the instrument originally creating such Security, other property which is an improvement to, or is acquired for specific use with, such acquired property; (ii) if applicable, any such Security shall be created within nine Months after, in the case of property, its acquisition, or, in the case of improvements, their Completion; and (iii) no such Security shall be made in respect of any indebtedness in relation to repayment of which recourse may be had to any member of the Group (in the form of Security) other than in relation to the item or items as referred to in (i) above;

(g) any Security renewing, extending or refinancing the indebtedness to which any Security permitted by paragraph (f) above relates; **provided that** the principal amount of indebtedness secured by such Security immediately prior thereto is not increased and such Security is not extended to other property;

(h) any Security created on shares representing no more than a Stake in the capital stock of any of the Company's Subsidiaries solely as a result of the deposit or transfer of such shares into a trust or a special purpose corporation (including any entity with legal personality) of which such shares constitute the sole assets **provided that** such Security may not secure Financial Indebtedness of the Company or any Subsidiary unless otherwise permitted under this Clause 22.6 and that the economic and voting rights in such capital stock is maintained by the Company in its Subsidiaries;

(i) any Security permitted by the Facility Agent, acting on the instructions of the Majority Lenders;

(j) any Security created pursuant to or in respect of a Permitted Securitisation;

(k) in addition to the Security permitted by the foregoing paragraphs (a) to (j), Security securing indebtedness of the Company and its Subsidiaries (taken as a whole but not including the Guarantors) not in excess of an amount equal to 5 per cent. of the Adjusted Consolidated Tangible Net Assets of the Group, as determined in accordance with GAAP; or

(l) in addition to the Security permitted by the foregoing paragraphs (a) to (e), (i) and (j), Security securing indebtedness of the Guarantors (taken together) not in excess of an amount of US$200,000,000 (or equivalent in other currencies),

unless, in each case, the Obligors have made or caused to be made effective provision whereby the obligations hereunder are secured equally and rateably with, or prior to, the indebtedness secured by such Security (other than Permitted Security) for so long as such indebtedness is so secured.

For the purposes of paragraph (k) of this Clause 22.6, "**Adjusted Consolidated Net Tangible Assets**" means, with respect to any person, the total assets of such person and its Subsidiaries (less applicable depreciation, amortisation and other valuation reserves), including any write-ups or restatements required under GAAP (other than with respect to items referred to in (ii) below), minus (i) all current liabilities of such person and its Subsidiaries (excluding the current portion of long-term debt) and (ii) all goodwill, trade names, trademarks, licences, concessions, patents, un-amortised debt discount and expense and other intangibles, all as determined on a consolidated basis in accordance with GAAP and by reference to the latest consolidated financial statements of the Company delivered pursuant to Clause 20.1 (*Financial statements*).

22.7 **Disposal Proceeds**

The Company shall use any amounts of Disposal Proceeds (having first complied with its obligations to prepay the Facilities as required by Clause 8.6 (*Mandatory Prepayment from Disposal Proceeds*)) and any amounts of Permitted Securitisation Proceeds (together, "**Relevant Disposal Proceeds**") to:

(a) otherwise repay or prepay the Facilities in accordance with Clause 6 (*Repayment*) or Clause 8.4 (*Voluntary prepayment of Loans*) respectively or otherwise pursuant to the terms of this Agreement;

(b) repay or prepay any Financial Indebtedness of the CEMEX Group (including any scheduled amortisation payments) where the tenor of such Financial Indebtedness is less than one year from the date of such repayment or prepayment, unless a member of the CEMEX Group is required to prepay or repay any indebtedness with such proceeds (in which case they shall be so used and this tenor requirement shall not apply);

(c) if, having used its reasonable endeavours to procure an amendment to any capital markets indebtedness of the Group outstanding on the Effective Date to reflect the terms of the financial covenants contained in Clause 21 (*Financial covenants*), it has been unable to do so and is therefore required to prepay such indebtedness, make such prepayment; or

(d) if, during any financial year of the Company in which Relevant Disposal Proceeds are received, the Company determines that it will require funds during that financial year to meet its obligations falling due in the ordinary course of its business (after taking into account any cash available to the Group or to be received by the Group during such period and not required to meet any specific obligations during such period) retain such Relevant Disposal Proceeds and apply them towards such obligations, **provided that**:

(i) the maximum amount of Relevant Disposal Proceeds that may be retained in this way in any financial year of the Company, when aggregated with all Relevant Disposal Proceeds retained in this way in such financial year shall not exceed the lower of (1) US$200 million (or its equivalent in other currencies) and (2) 20 per cent. of the aggregate Relevant Disposal Proceeds which have been received by the Company or any member of the Group in that financial year of the Company; and

(ii) if any Relevant Disposal Proceeds are retained in this way and not in fact used to meet obligations falling due in the ordinary course of its business referred to above in the financial year of the Company in which such Relevant Disposal Proceeds are received, the amount which has not been so applied shall be applied promptly by the Company for one or more of the purposes set out in sub-paragraphs (a) to (c) (inclusive) above,

and further **provided that** the Company shall notify the Agent of any amounts which it intends to retain from Relevant Disposal Proceed pursuant to this paragraph (d) promptly after receipt of the same.

22.8 **Financial Indebtedness**

(a) Except as permitted under paragraph (b) below, the Company shall not (and shall procure that none of its Subsidiaries will) incur any Financial Indebtedness in respect of any new loan facility (whether syndicated or bilateral) or any new issue of debt securities (" **Relevant Financial Indebtedness**") after the date of this Agreement where such Relevant Financial Indebtedness is to be used to finance:

(i) any acquisition (other than acquisitions in the ordinary course of trading);

(ii) payment of any dividends or other distribution or payment to (directly or indirectly) the shareholders of CEMEX Parent (including any payment in connection with any redemption, repurchase, defeasance, retirement or repayment of the share capital of CEMEX Parent);

(iii) Capital Expenditure incurred by CEMEX Parent or its Subsidiaries exceeding an aggregate amount of:

(A) US$40,000,000 (or its equivalent in other currencies) for the financial year ending 31 December 2009;

(B) US$60,000,000 (or its equivalent in other currencies) for the financial year ending 31 December 2010; and

(C) US$60,000,000 (or its equivalent in other currencies) for the financial year ending 31 December 2011,

(and for these purposes "**Capital Expenditure**" means Maintenance Capital Expenditure and Expansion Capital Expenditure taken together (where "**Maintenance Capital Expenditure**" means expenses or investments made for the maintenance or replacement of existing plant and equipment used for the business of CEMEX Parent or its Subsidiaries and " **Expansion Capital Expenditure**" means expenses or investments which is not Maintenance Capital Expenditure and is made for the expansion of any production or distribution facilities of CEMEX Parent or its Subsidiaries)) and **provided that** this Clause 22.8 (*Financial Indebtedness*) shall only apply if:

(i) on the date of any incurrence of Relevant Financial Indebtedness and, for these purposes only, after giving effect thereto on a pro forma basis (as if such Relevant Financial Indebtedness had been incurred on the first day of the Relevant Period for which the ratio of Net Borrowings to Adjusted EBITDA has then been most recently tested pursuant to Clause 21.3 (*Financial testing*)), the ratio of Net Borrowings to Adjusted EBITDA is greater than or equal to 3.5 to 1.0; or

(ii) an Event of Default has occurred and is continuing or would result from the incurrence of such Relevant Financial Indebtedness.

(b) Paragraph (a) above does not apply to:

(i) any Subordinated Debt or other amounts which are made available in a form which satisfies the Spanish law requirements of *préstamos participativos*;

(ii) other Financial Indebtedness subordinated on terms satisfactory to the Majority Lenders which is used to repay or prepay CEMEX Capital Contributions or pay Royalty Expenses; or

(iii) Financial Indebtedness owed to another member of the Group.

22.9 **Permitted Securitisations and leasing transactions**

The Company shall use its reasonable endeavours to procure that any leasing transactions in respect of material plant and machinery required for the business of the Group or Permitted Securitisations which have been entered into as at the Effective Date continue.

22.10 **Merger**

(a) Subject to paragraphs (b) and (c) of this Clause 22.10, unless it has obtained the prior written approval of the Majority Lenders, no Obligor shall (and the Company shall ensure that none of its Subsidiaries shall) enter into any amalgamation, demerger, merger or other corporate reconstruction (a "**Reconstruction**"), other than (i) a Reconstruction relating only to CEMEX Parent's Subsidiaries *inter se*; (ii) a Reconstruction between the Company and any of its Subsidiaries; or (iii) a solvent reorganisation or liquidation of any of the Subsidiaries of the Company which are not Obligors, **provided that** in any case no Default shall have occurred and be continuing at the time of such transaction or would result therefrom and **provided further that** (a) none of the Security (if any) granted to the Lenders nor the guarantees granted by the Guarantors hereunder is or are adversely affected as a result, and (b) the resulting entity, if it is not an Obligor, assumes the obligations of the Obligor the subject of the merger.

(b) Subject to paragraph (c) of this Clause 22.10, the Obligors may merge with any other person if the book value of such person's assets prior to the merger does not exceed 3 per cent. of the book value of the Group's assets taken as a whole considered on a consolidated basis.

(c) No merger otherwise permitted by paragraphs (a) and (b) of this Clause 22.10 shall be so permitted if as a result the then existing Ratings of the Company would be downgraded whether at the time of, or within 3 Months of, the date of announcement of a Reconstruction, directly as a result of any merger involving the Company. Furthermore the resulting entity of any merger otherwise permitted by paragraphs (a) and (b) of this Clause 22.10, if it is not an Obligor, shall assume the obligations of any Obligor which is the subject of the merger.

22.11 **Change of business**

(a) None of the Obligors shall make a substantial change to the general nature of its business from that carried on at the date of this Agreement.

(b) None of the Obligors shall cease to carry on its business (save (except in the case of the Company which shall in no event cease or substantially change its business) unless another Obligor continues to operate any such business).

(c) The Company shall procure that no substantial change is made to the general nature of the business of any of its Material Subsidiaries from that carried on at the date of this Agreement and that there shall be no cessation of such business.

22.12 **Insurance**

The Obligors shall (and the Company shall ensure that each of its Material Subsidiaries (other than the Obligors) shall) maintain insurances on and in relation to its business and assets with reputable underwriters or insurance companies against those risks and to the extent as is usual for companies carrying on the same or substantially similar business where such insurance is available on reasonable commercial terms.

22.13 **Environmental Compliance**

The Company shall (and the Company shall ensure that each of its Subsidiaries shall) comply in all material respects with all Environmental Law and obtain and maintain any Environmental Permits and take all reasonable steps in anticipation of known or expected future changes to or obligations under the same, in each case where failure to do so might reasonably be expected to have a Material Adverse Effect.

22.14 **Environmental Claims**

The Company shall inform the Facility Agent in writing as soon as reasonably practicable upon becoming aware of the same:

(a) if any Environmental Claim has been commenced or (to the best of the Company's knowledge and belief) is threatened against any member of the Group which is likely to be determined adversely to the member of the Group; or

(b) of any facts or circumstances which will or are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group,

where the claim would be reasonably likely, if finally determined against that member of the Group, to have a Material Adverse Effect.

22.15 **Transactions with Affiliates**

Each Obligor shall (and the Company shall ensure that its Subsidiaries shall) ensure that any transactions with its respective Affiliates are on terms that are fair and reasonable and no less favourable to such Obligor or such Subsidiary than it would obtain in a comparable arm's-length transaction with a person who is not an Affiliate.

22.16 **Pari passu ranking**

Each Obligor shall ensure that at all times its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law or regulation applying to companies generally from time to time.

22.17 **Subsidiary Financial Indebtedness incurrence**

If, at any time, the aggregate outstanding principal amount of Subsidiary Financial Indebtedness exceeds 15 per cent. of the Consolidated Total Assets, then for so long as such remains the case, no Subsidiary of the Company (except Subsidiaries described in paragraph (f)

of the definition of "**Subsidiary Financial Indebtedness**" below) may, directly or indirectly, create, incur, assume or otherwise become liable with respect to any other Financial Indebtedness.

"**Subsidiary Financial Indebtedness**" means Financial Indebtedness of a Subsidiary of the Company other than:

(a) Financial Indebtedness of a Subsidiary of the Company that is an Excluded Subsidiary Guarantor;

(b) Financial Indebtedness of a Subsidiary of the Company as disclosed in Schedule 13 (*Existing Financial Indebtedness*) **provided that**:

(i) the principal amount of such Financial Indebtedness shall not be increased above the principal amount thereof outstanding immediately prior to any extension, refunding or refinancing; and

(ii) the aggregate amount of all Financial Indebtedness that has been extended, refunded or refinanced under this paragraph (b) shall not exceed US$250,000,000 (or the equivalent thereof if denominated in another currency),

for the avoidance of doubt, it is understood that:

(X) if any such Financial Indebtedness is successively extended, refinanced or refunded, only the Financial Indebtedness outstanding after giving effect to all such successive extensions, refinancing and refundings shall be counted against the foregoing amount; and

(Y) any Financial Indebtedness incurred in a currency other than US Dollars pursuant to this paragraph (b) shall continue to be permitted under this paragraph (b), notwithstanding any fluctuation in currency values, as long as the outstanding principal amount of such Financial Indebtedness (denominated in its original currency) does not exceed the maximum amount of such Financial Indebtedness (denominated in such currency) permitted to be outstanding on the date such Financial Indebtedness was incurred);

(c) Financial Indebtedness of a Subsidiary of the Company owed to the Company or another Subsidiary of the Company;

(d) Financial Indebtedness of a Subsidiary of the Company that was:

(i) outstanding at the time such Subsidiary became a Subsidiary of the Company; or

(ii) contractually required to be incurred by such Subsidiary at such time,

provided that such Financial Indebtedness shall not have been incurred in contemplation of such Subsidiary becoming a Subsidiary of the Company and **provided that** there is no recourse to any member of the Group other than such Subsidiary following the date falling 60 days after such Subsidiary became a Subsidiary of the Company;

(e) any Financial Indebtedness extending the maturity of the Financial Indebtedness referred to in paragraph (d) above, or any refunding or refinancing of the same, **provided that** the principal amount of such Financial Indebtedness shall not be increased above the principal amount thereof outstanding immediately prior to such extension, refunding or refinancing;

(f) Financial Indebtedness of a Subsidiary of the Company which:

(i) has been formed for the purpose of, and whose primary activities are, the issuance or other incurrence of debt obligations to Persons other than Affiliates of the Company and the lending or other advance of the net proceeds of such debt obligations (whether directly or indirectly) to the Company or any Guarantor which is a Holding Company (as defined in sub-Clause 25.3 (*Additional Guarantors*)); and

(ii) has no significant assets other than debt obligations, promissory notes and other contract rights in respect of funds advanced to the Company or such Guarantors; and

(g) Financial Indebtedness of a Subsidiary of the Company incurred pursuant to or in connection with any pooling agreements in place within a bank or financial institution, but only to the extent of offsetting credit balances of the Company or its Subsidiaries pursuant to such pooling arrangement.

For the purposes of this Clause 22.17 (*Subsidiary Financial Indebtedness incurrence*):

"**Consolidated Total Assets**" means, at any time, the total assets of the Company and its Subsidiaries, as determined in accordance with Spanish GAAP by reference to the most recent financial statements supplied by the Company pursuant to Clause 20.1 (*Financial Statements*) or any Compliance Certificate provided pursuant to Clause 20.2 (*Compliance Certificate*), **provided that** such financial statements or Compliance Certificate, as the case may be, shall be adjusted to reflect the acquisition of any Subsidiary.

"**Excluded Subsidiary Guarantor**" means any Subsidiary of the Company that is an Original Guarantor or that becomes a Guarantor (pursuant to Clause 25.3 (*Additional Guarantors*)) if, in the case of any Additional Guarantor only, legal opinions and other evidence are delivered to the Facility Agent sufficient to establish to the reasonable satisfaction of the Facility Agent and its legal adviser that the obligations of such Guarantor under this Agreement rank and will continue to rank at least *pari passu* with all other unsecured and unsubordinated Financial Indebtedness of such Guarantor, including in a bankruptcy or insolvency proceeding.

22.18 **Payment restrictions affecting Subsidiaries**

The Company shall not enter into or suffer to exist, or permit any of its Subsidiaries to enter into or suffer to exist, any agreement or arrangement (other than any Finance Document) directly limiting the ability of any of its Subsidiaries to:

(a) declare or pay dividends or other distributions in respect of its or their respective equity interests in a Subsidiary, except any agreement or arrangement entered into by a person prior to such person becoming a Subsidiary, in which case the Company shall use its reasonable endeavours to remove such limitations. If however, such limitations are reasonably likely to affect the ability of the Company to satisfy its payment obligations under this Agreement, the Company shall use its best endeavours to remove such limitations as soon as possible; or

(b) repay or capitalise any intercompany indebtedness owed by any Subsidiary to any Obligor and, for the avoidance of doubt, subordination provisions shall not be considered a limitation for the purpose of this Clause 22.18.

The provisions of paragraphs (a) and (b) above shall not restrict:

(i) any agreements or arrangements that are binding upon any person in connection with a Permitted Securitisation and any agreement or arrangement that limits the ability of any Subsidiary of the Company that transfers receivables and related assets pursuant to a Permitted Securitisation to distribute or transfer receivables and related assets **provided that**, in each case, all such agreements and arrangements are customarily required by the institutional sponsor or arranger of such Permitted Securitisation in similar types of documents relating to the purchase of receivables and related assets in connection with the financing thereof;

(ii) customary provisions in joint venture agreements relating to dividends or other distributions in respect of such joint venture or the securities, assets and revenues of such joint venture; and

(iii) restrictions on distributions applicable to Subsidiaries of the Company that are the subject of agreements to sell or otherwise dispose of the stock or assets of such Subsidiaries pending such sale or other disposition.

22.19 **Notification of adverse change in Ratings**

The Company shall promptly notify the Facility Agent of any change in its Ratings or Outlook.

22.20 **Reasonable Endeavours Securities Issuance**

If by 30 June 2009 the aggregate amount of Disposal Proceeds received by the Group (on a cumulative basis) is less than US$1,000,000,000, the Company shall use (or shall procure that one of its Subsidiaries will use) reasonable endeavours to issue unsecured long term debt securities on the capital markets (a "**Reasonable Endeavours Securities Issuance**"), **provided that** such a Securities Issuance shall meet the following conditions:

(a) such issuance shall be consistent with the Company's or the relevant Subsidiary's contractual obligations (including its obligations under the Finance Documents) and the fiduciary duties of its board of directors;

(b) such issuance shall be structured so as to be exempt from registration under applicable US securities laws;

(c) the economic terms and conditions of such securities shall be reasonably acceptable to the Company or the relevant Subsidiary, including being on similar terms to securities issued in the period of 90 days prior to the date of issuance by corporate issuers that are comparable in the sector and which have a comparable rating to that of the Company or the relevant Subsidiary (or, if no such securities have been issued, on similar terms to securities issued by US corporate issuers with a comparable rating to the Company or the relevant Subsidiary); and

(d) the covenant terms, as to the Company or the relevant Subsidiary, shall be substantially similar to the terms of the Company's or the relevant Subsidiary's (as the case may be) other outstanding similar long term debt securities and shall not conflict with, or be more onerous than, the terms of the Company's or its Subsidiaries' other bank financing arrangements at that time.

23. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 23 is an Event of Default.

23.1 Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless such failure to pay is caused by an administrative error or technical difficulties within the banking system in relation to the transmission of funds and payment is made within three Business Days of its due date.

23.2 Financial Covenants

Any requirement of Clause 21 (*Financial Covenants*) is not satisfied.

23.3 Other obligations

(a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 23.1 (*Non-payment*) and Clause 21 (*Financial covenants*)).

(b) No Event of Default under paragraph (a) of this Clause 23.3 above will occur if the failure to comply is capable of remedy and is remedied within fifteen Business Days of the Facility Agent giving written notice to the Company or the Company becoming aware of the failure to comply, whichever is the earlier.

23.4 Misrepresentation

Any representation or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

23.5 Cross acceleration

(a) Any Financial Indebtedness of any Obligor or member of the Group is not paid when due nor within any originally applicable grace period.

(b) Any Financial Indebtedness of any Obligor or member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

(c) No Event of Default will occur under this Clause 23.5 if the aggregate amount of Financial Indebtedness falling within paragraphs (a) and (b) of this Clause 23.5 above is less than US$75,000,000 (or its equivalent in any other currency or currencies).

23.6 **Insolvency**

(a) Any of the Obligors or Material Subsidiaries is unable or admits inability to pay its debts as they fall due or, by reason of actual or anticipated financial difficulties, suspends making payments on any of its debts or commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.

(b) The value of the assets of any of the Obligors or Material Subsidiaries is less than its liabilities (taking into account contingent and prospective liabilities).

(c) A moratorium is declared in respect of any indebtedness of any of the Obligors or Material Subsidiaries.

23.7 **Insolvency proceedings**

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

(a) a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any of the Obligors or Material Subsidiaries, other than a solvent liquidation or reorganisation of any of the Material Subsidiaries which are not Obligors;

(b) a composition, assignment or arrangement with any class of creditor of any of the Obligors or Material Subsidiaries;

(c) the appointment of a liquidator (other than in respect of a solvent liquidation of any of the Material Subsidiaries which are not Obligors), receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any of the Obligors or Material Subsidiaries or any of their assets;

or any analogous procedure or step is taken in any jurisdiction.

This paragraph shall not apply to any winding-up petition (or equivalent procedure in any jurisdiction) which is frivolous or vexatious and is discharged, stayed or dismissed within 60 days of commencement.

23.8 **Expropriation and sequestration**

Any expropriation or sequestration affects any asset or assets of any Obligor or any Material Subsidiary and has a Material Adverse Effect.

23.9 **Creditors' process and enforcement of Security**

(a) Any Security is enforced against any Obligor or any Material Subsidiary.

(b) Any attachment, distress or execution affects any asset or assets of any Obligor or any Material Subsidiary which is reasonably likely to cause a Material Adverse Effect.

(c) No Event of Default under paragraphs (a) or (b) of this Clause 23.9 above will occur if:

(i) the action is being contested in good faith by appropriate proceedings;

(ii) the principal amount of the indebtedness secured by such Security or in respect of which such attachment, distress or execution is carried out represents less than US$75,000,000 (or its equivalent in any other currency or currencies); and

(iii) the enforcement proceedings, attachment, distress or execution is or are discharged within 60 days of commencement.

23.10 **Ownership of Obligors**

Any Obligor (other than the Company) ceases to be a Subsidiary of the Company.

23.11 **Failure to comply with judgment**

Any Obligor or any Material Subsidiary fails to comply with or pay any sum due from it under any judgment or any order made or given by any court of competent jurisdiction, unless payment of any such sum is suspended pending an appeal.

23.12 **Unlawfulness**

It is or becomes unlawful for an Obligor to perform any of its obligations under the Finance Documents where non-performance is reasonably likely to cause a Material Adverse Effect.

23.13 **Repudiation**

An Obligor repudiates a Finance Document or evidences an intention to repudiate a Finance Document.

23.14 **Material adverse change**

Any material adverse change arises in the financial condition of the Group taken as a whole, which the Majority Lenders reasonably determine would result in the failure by any Obligor to perform its payment obligations under any of the Finance Documents.

23.15 **Acceleration**

On and at any time after the occurrence of an Event of Default which is continuing the Facility Agent may, while such Event of Default is continuing and shall if so directed by the Majority Lenders, by notice to the Company:

(a) cancel the Total Commitments whereupon they shall immediately be cancelled;

(b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or

(c) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Facility Agent on the instructions of the Majority Lenders.

SECTION 9
CHANGES TO PARTIES

24. CHANGES TO THE LENDERS

24.1 Assignments and transfers by the Lenders

Subject to this Clause 24, a Lender (the "**Existing Lender**") may:

(a) assign any of its rights and benefits in respect of any Utilisation; or

(b) transfer by novation any of its rights, benefits and obligations in respect of any Commitment or any Utilisation,

to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the " **New Lender**"), **provided that** no Lender may transfer or assign any of its rights, benefits or obligations under the Finance Documents to any U.S. Lender or enter into a sub-participation agreement in respect of such rights, benefits or obligations with a U.S. Lender.

24.2 Conditions of assignment or transfer

(a) The Borrower must be notified no later than one Business Day prior to the proposed date of any assignment or transfer pursuant to this Clause 24.1 (*Assignments and transfers by the Lenders*).

(b) An assignment will be effective only on:

(i) receipt by the Facility Agent of written confirmation from the New Lender that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it was an Original Lender; and

(ii) the satisfaction of the Facility Agent with the results of all " **know your client**" or other checks relating to the identity of any person that it is required by law to carry out in relation to such assignment to a New Lender, the completion of which the Facility Agent shall promptly notify to the Existing Lender and the New Lender.

(c) A transfer will be effective only if the procedure set out in Clause 24.5 (*Procedure for transfer*) is complied with.

(d) If:

(i) a Lender assigns or transfers any of its rights, benefits or obligations under the Finance Documents or changes its Facility Office; and

(ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 13 (*Tax Gross-up and Indemnities*) or Clause 14 (*Increased Costs*),

then the New Lender or Lender acting through its new Facility Office is entitled to receive payment under those Clauses only to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

(e) In addition to the other assignment rights provided in this Clause 24, each Lender may assign, as collateral or otherwise, any of its rights under this Agreement (including rights to payments of principal or interest on the Loans) to any trustee for the benefit of the holders of such Lender's securities **provided that** no such assignment shall release the assigning Lender from any of its obligations under this Agreement.

24.3 **Assignment or transfer fee**

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Facility Agent (for its own account) a fee of US$2,000, except no such fee shall be payable in connection with an assignment or transfer to a New Lender upon primary syndication of the Facilities.

24.4 **Limitation of responsibility of Existing Lenders**

(a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

(i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;

(ii) the financial condition of any Obligor;

(iii) the performance and observance by any Obligor of its obligations under the Finance Documents or any other documents; or

(iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law or regulation are excluded.

(b) Each New Lender confirms to the Existing Lender, and the other Finance Parties that it:

(i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and

(ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

(c) Nothing in any Finance Document obliges an Existing Lender to:

(i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause 24; or

(ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

24.5 **Procedure for transfer**

(a) Subject to the conditions set out in Clause 24.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (b) below when the Facility Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate and send a copy to the Company.

(b) On the Transfer Date:

(i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights, and obligations under the Finance Documents each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the "**Discharged Rights and Obligations**");

(ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

(iii) the Facility Agent, the Documentation Agent, the New Lender and the other Lenders, shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Facility Agent, the Documentation Agent and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and

(iv) the New Lender shall become a Party as a "**Lender**".

24.6 **Procedure for assignment**

(a) Subject to the conditions set out in Clause 24.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Facility Agent shall,

subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.

(b) The Facility Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender upon its completion of all "know your customer" or other checks relating to any person that it is required to carry out in relation to the assignment to such New Lender.

(c) On the Transfer Date:

(i) the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents;

(ii) the Existing Lender will be released from the obligations (the " **Relevant Obligations**") expressed to be the subject of the release in the Assignment Agreement; and

(iii) the New Lender shall become a Party as a "Lender" and will be bound by obligations equivalent to the Relevant Obligations.

(d) Lenders may utilise procedures other than those set out in this Clause 24.6 to assign their rights under the Finance Documents **provided that** they comply with the conditions set out in Clause 24.2 (*Conditions of assignment or transfer*).

24.7 **Copy of Transfer Certificate to Borrower**

The Facility Agent shall, as soon as reasonably practicable after it has received a Transfer Certificate, send to the Company a copy of that Transfer Certificate.

24.8 **Disclosure of information**

(a) Any Lender may disclose to any of its Affiliates and any other person:

(i) to (or through) whom that Lender assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under the Finance Documents;

(ii) with (or through) whom that Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, the Finance Documents; or

(iii) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation,

any information about any Obligor, the Group and the Finance Documents as that Lender shall consider appropriate **provided that** (in the case of paragraphs (i) and (ii) only) the person to whom the information is to be given has entered into a Confidentiality Undertaking.

(b) Any Lender may also disclose the size and term of the Facilities and the name of each of the Obligors to any investor or a potential investor in a securitisation (or similar

transaction of broadly equivalent economic effect) of that Lender's rights or obligations under the Finance Documents **provided that** the person to whom the information is to be given has entered into a Confidentiality Undertaking.

24.9 **Interest**

All interest accrued in the Interest Period in which a transfer is effective shall be paid to the Existing Lender.

24.10 **Security over Lenders' rights**

In addition to the other rights provided to Lenders under this Clause 24, each Lender may without consulting with or obtaining consent from any Obligor, at any time create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

(a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and

(b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or other Security shall:

(i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or other Security for the Lender as a party to any of the Finance Documents; or

(ii) require any payments to be made by an Obligor or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Finance Documents.

25. **CHANGES TO THE OBLIGORS**

25.1 **Assignment and Transfers by Obligors**

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

25.2 **Additional Borrowers**

(a) Subject to compliance with the provisions of paragraphs (b) and (c) of Clause 20.6 (*"Know your client" checks*), the Company may request that any of its wholly owned Subsidiaries which is not a dormant Subsidiary becomes an Additional Borrower. That Subsidiary shall become an Additional Borrower if:

(i) either:

(A) (if at the time the Company is a Guarantor hereunder) the Majority Lenders approve the addition of that Subsidiary; or

(B) (if at the time the Company is not a Guarantor hereunder) the Lenders approve the addition of that Subsidiary:

(ii) the Company and that Subsidiary deliver to the Facility Agent a duly completed and executed Accession Letter;

(iii) the Company confirms that no Default is continuing or would occur as a result of that Subsidiary becoming an Additional Borrower; and

(iv) the Facility Agent has received all of the documents and other evidence listed in Part II of Schedule 2 (*Conditions precedent required to be delivered by an Additional Obligor*) in relation to that Additional Borrower, each in form and substance satisfactory to the Facility Agent.

(b) The Facility Agent shall notify the Company and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part II of Schedule 2 (*Conditions precedent required to be delivered by an Additional Obligor*).

25.3 **Additional Guarantors**

(a) Subject to compliance with the provisions of paragraphs (b) and (c) of Clause 20.6 (*"Know your client" checks*), the Company may request that it or any of its wholly owned Subsidiaries become an Additional Guarantor.

(b) The Company may request that it or any of its Subsidiaries becomes an Additional Guarantor by:

(A) the Company delivering to the Facility Agent a duly-completed and executed Accession Letter; and

(B) the Facility Agent receiving from the Company all of the documents and other evidence referred to in Part II of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Obligor*) in relation to that Additional Guarantor.

(c) The Facility Agent shall notify the Company and the Lenders promptly upon being satisfied that it has received all the documents and other evidence listed in Part II of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Obligor*).

25.4 **Resignation of Guarantor**

A Guarantor (a "**Resigning Guarantor**") will cease to be a Guarantor if:

(a) it makes a sale, lease, transfer or other disposal of all or substantially all (but not a part only) of its assets to another member of the Group which is or becomes a Guarantor in accordance with Clause 25.3 (*Additional Guarantors*); or

(b) it notifies the Facility Agent that it has no assets and provides the Facility Agent with a certificate signed by a director of the Company confirming that it has no assets,

provided that:

(i) such Resigning Guarantor also, if applicable, ceases concurrently to be a guarantor in respect of any other indebtedness of the Group or of any member of the Group;

(ii) such Resigning Guarantor notifies the Facility Agent of any sale, lease, transfer or other disposal in accordance with paragraph (a) of this Clause 25.4; and

(iii) the Company may not resign as a Guarantor without the consent of all Lenders.

25.5 **Resignation of a Borrower**

(a) The Company may request that a Borrower (other than the Company) ceases to be a Borrower by delivering to the Facility Agent a letter of resignation signed by an Authorised Signatory of the Company and the relevant Borrower, which confirms that the requirements of paragraph (b) below are met.

(b) The Facility Agent shall accept such a resignation and promptly notify the Company and the Lenders of its acceptance if:

(i) no Default is continuing or would result from the acceptance of the resignation (and the Company has confirmed this is the case); and

(ii) the Borrower is under no actual or contingent obligations as a Borrower under any Finance Documents,

whereupon that company shall cease to be a Borrower and shall have no further rights or obligations under the Finance Documents.

25.6 **Repetition of Representations**

Delivery of an Accession Letter constitutes confirmation by the relevant Affiliate that the Repeating Representations are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

SECTION 10
THE FINANCE PARTIES

26. ROLE OF THE FACILITY AGENT AND THE DOCUMENTATION AGENT

26.1 Appointment of the Facility Agent

(a) Each of the Documentation Agent and the Lenders appoints the Facility Agent to act as its agent under and in connection with the Finance Documents.

(b) Each of the Documentation Agent and the Lenders, authorises the Facility Agent to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

26.2 Duties of the Facility Agent

(a) The Facility Agent shall promptly forward to a Party the original or a copy of any document (including, but not limited to, the Company's annual financial statements) which is delivered to the Facility Agent for that Party by any other Party.

(b) The Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(c) If the Facility Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.

(d) If the Facility Agent is aware of the non-payment of any principal, interest or fee payable to a Finance Party (other than the Facility Agent or the Documentation Agent) under this Agreement it shall promptly notify the other Finance Parties.

(e) The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

26.3 Role of the Documentation Agent

Except as specifically provided in the Finance Documents, the Documentation Agent has no obligations of any kind to any other Party under or in connection with any Finance Document.

26.4 No fiduciary duties

(a) Nothing in this Agreement constitutes the Facility Agent and/or the Documentation Agent, as a trustee or fiduciary of any other person.

(b) Neither the Facility Agent nor the Documentation Agent shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

26.5 Business with the Group

The Facility Agent and the Documentation Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

26.6 **Rights and discretions**

(a) The Facility Agent may rely on:

(i) any representation, notice or document (including, for the avoidance of doubt, any representation, notice or document communicating the consent of the Majority Lenders pursuant to Clause 35.1 (*Required consents*)) believed by it to be genuine, correct and appropriately authorised; and

(ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

(b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:

(i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 23.1 (*Non-payment*));

(ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and

(iii) any notice or request made by the Company (other than a Utilisation Request) is made on behalf of and with the consent and knowledge of all the Obligors.

(c) The Facility Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.

(d) The Facility Agent may act in relation to the Finance Documents through its personnel and agents.

(e) The Facility Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.

(f) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor the Documentation Agent, is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law and regulation or a breach of a fiduciary duty or duty of confidentiality.

26.7 **Majority Lenders' instructions**

(a) Unless a contrary indication appears in a Finance Document, the Facility Agent shall (i) exercise any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by the Majority Lenders (or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders.

(b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders will be binding on all the Finance Parties.

(c) The Facility Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders) until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.

(d) In the absence of instructions from the Majority Lenders, (or, if appropriate, the Lenders) the Facility Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.

(e) The Facility Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.

26.8 **Responsibility for documentation**

Neither the Facility Agent nor the Documentation Agent:

(a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Facility Agent, the Documentation Agent, an Obligor or any other person given in or in connection with any Finance Document or the Information Memorandum; or

(b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document.

26.9 **Exclusion of liability**

(a) Without limiting paragraph (b) below, neither the Facility Agent nor the Documentation Agent will be liable for any action taken by it under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct or wilful breach of any Finance Document.

(b) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Facility Agent may rely on this Clause 26 subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.

(c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.

(d) Nothing in this Agreement shall oblige the Facility Agent or the Documentation Agent to carry out any checks pursuant to any laws or regulations relating to money laundering in relation to any person on behalf of any Lender and each Lender confirms to the Facility Agent and the Documentation Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Facility Agent or the Documentation Agent.

26.10 **Lenders' indemnity to the Facility Agent**

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor pursuant to a Finance Document).

26.11 **Resignation of the Facility Agent**

(a) The Facility Agent may resign and appoint one of its Affiliates acting through an office in the European Union as successor by giving notice to the other Finance Parties and the Company.

(b) Alternatively the Facility Agent may resign by giving notice to the other Finance Parties and the Company, in which case the Majority Lenders (after consultation with the Company) may appoint a successor Facility Agent.

(c) If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the Facility Agent (after consultation with the Company) may appoint a successor Facility Agent (acting through an office in the European Union).

(d) The retiring Facility Agent shall, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.

(e) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.

(f) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 26.11. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

(g) After consultation with the Company, the Majority Lenders may, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) above. In this event, the Facility Agent shall resign in accordance with paragraph (b) above.

26.12 **Confidentiality**

(a) In acting as agent for the Finance Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by another division or department of the Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.

(c) Notwithstanding any other provision of any Finance Document to the contrary, none of the Facility Agent and the Documentation Agent are obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

26.13 **Relationship with the Lenders**

(a) The Facility Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five Business Days prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

(b) Each Lender shall supply the Facility Agent with any information required by the Facility Agent in order to calculate the Mandatory Cost in accordance with Schedule 4 (*Mandatory Cost Formulae*).

26.14 **Credit appraisal by the Finance Parties**

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Finance Party confirms to the Facility Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

(a) the financial condition, status and nature of each member of the Group;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

(c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and

(d) the adequacy, accuracy and/or completeness of the Information Memorandum, and any other information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.

26.15 **Reference Banks**

If a Reference Bank (or, if a Reference Bank is not a Lender, the Lender of which it is an Affiliate) ceases to be a Lender, the Facility Agent shall (in consultation with the Company) appoint another Lender or an Affiliate of a Lender to replace that Reference Bank.

26.16 **Agent's Management Time**

Any amount payable to the Facility Agent under Clause 15.3 (*Indemnity to the Facility Agent*) and Clause 26.10 (*Lenders' indemnity to the Facility Agent*) shall include the cost of utilising the Facility Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Facility Agent may notify to the Company and the Lenders, and is in addition to any fee paid or payable to the Facility Agent under Clause 12 (*Fees*).

26.17 **Deduction from amounts payable by the Facility Agent**

If any Party owes an amount to the Facility Agent under the Finance Documents the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

27. **CONDUCT OF BUSINESS BY THE FINANCE PARTIES**

No provision of this Agreement will:

(a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;

(b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or

(c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax (but without prejudice to the terms of Clause 13.3 (*Tax indemnity*)).

28. **SHARING AMONG THE FINANCE PARTIES**

28.1 **Payments to Finance Parties**

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from an Obligor other than in accordance with Clause 29 (*Payment Mechanics)* (whether by way of set-off or otherwise) and applies that amount to a payment due under the Finance Documents then:

(a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Facility Agent;

(b) the Facility Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with Clause 29 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and

(c) the Recovering Finance Party shall, within three Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 29.5 (*Partial payments*).

28.2 **Redistribution of payments**

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) in accordance with Clause 29.5 (*Partial payments)*.

28.3 **Recovering Finance Party's rights**

(a) On a distribution by the Facility Agent under Clause 28.2 (*Redistribution of payments*), the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in the redistribution.

(b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the relevant Obligor shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

28.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

(a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 28.2 (*Redistribution of payments*) shall, upon request of the Facility Agent, pay to the Facility Agent for account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay); and

(b) that Recovering Finance Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Finance Party for the amount so reimbursed.

28.5 **Exceptions**

(a) This Clause 28 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause 28, have a valid and enforceable claim against the relevant Obligor.

(b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

(i) it notified that other Finance Party of the legal or arbitration proceedings; and

(ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

SECTION 11
ADMINISTRATION

29. PAYMENT MECHANICS

29.1 Payments to the Facility Agent

(a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, that Obligor or Lender shall make the same available to the Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payments by Obligors or Lenders shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London) with such bank as the Facility Agent specifies.

29.2 Distributions by the Facility Agent

Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to Clause 29.3 (*Distributions to an Obligor*), Clause 29.4 (*Clawback*) and Clause 26.17 (*Deduction from amounts payable by the Facility Agent)* be made available by the Facility Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London).

29.3 Distributions to an Obligor

The Facility Agent may (with the consent of the Obligor or in accordance with Clause 30 (*Set-Off*)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

29.4 Clawback

(a) Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

(b) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

29.5 **Partial payments**

(a) If the Facility Agent receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor under the Finance Documents, the Facility Agent shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:

(i) first, in or towards payment *pro rata* of any unpaid fees, costs and expenses of the Facility Agent and the Documentation Agent under the Finance Documents;

(ii) secondly, in or towards payment *pro rata* of any accrued interest, fee or commission due but unpaid under this Agreement;

(iii) thirdly, in or towards payment *pro rata* of any principal due but unpaid under this Agreement; and

(iv) fourthly, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.

(b) The Facility Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.

(c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

(d) The Lenders hereby expressly agree that the Facility Agent shall not apply any amount received in accordance with paragraph (a) above to discharge the obligations of an Obligor owed to a Lender if such partial payment received by the Facility Agent is as a result of that Lender being considered as a subordinated creditor by operation of any insolvency law.

29.6 **No set-off by Obligors**

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

29.7 **Business Days**

(a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or an Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

29.8 **Currency of account**

(a) Subject to paragraphs (b) to (f) below, US Dollars is the currency of account and currency of payment for any sum due from an Obligor under any Finance Document.

(b) A repayment of a Utilisation or Unpaid Sum or a part of a Utilisation or Unpaid Sum shall be made in the currency in which that Utilisation or Unpaid Sum is denominated on its due date.

(c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

(d) Unless otherwise provided in this Agreement or any other Finance Document, any amount (including fees) payable in respect of (i) Facility A shall be paid in US Dollars and (ii) Facility B shall be paid in Euro.

(e) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

(f) Any amount expressed to be payable in a currency other than US Dollars shall be paid in that other currency.

29.9 **Change of currency**

(a) Unless otherwise prohibited by law or regulation, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (after consultation with the Company); and

(ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other rounded up or down by the Facility Agent (acting reasonably).

(b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Company) specifies to be necessary be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

30. **SET-OFF**

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

31. **NOTICES**

31.1 **Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter or (in accordance with Clause 31.5 (*Electronic communication*)) by email.

31.2 **Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

(a) in the case of the Company, that identified with its name below;

(b) in the case of each Lender, or any other Obligor, that notified in writing to the Facility Agent on or prior to the date on which it becomes a Party; and

(c) in the case of the Facility Agent, that identified with its name below,

or any substitute address or fax number or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five Business Days' notice.

31.3 **Delivery**

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(i) if by way of fax, when received in legible form; or

(ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

(iii) and, if a particular department or officer is specified as part of its address details provided under Clause 31.2 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Facility Agent will be effective only when actually received by the Facility Agent and then only if it is expressly marked for the attention of the department or officer identified with the Facility Agent's signature below (or any substitute department or officer as the Facility Agent shall specify for this purpose).

(c) All notices from or to an Obligor shall be sent through the Facility Agent. The Company may make and/or deliver as agent of each Obligor notices and/or requests on behalf of each Obligor.

(d) Any communication or document made or delivered to the Company in accordance with this Clause 31 will be deemed to have been made or delivered to each of the Obligors.

(e) Any notice delivered in accordance with this Clause 31 after 4 p.m. local time in the place of delivery on a given day shall be deemed to have been received on the next Business Day after such day.

31.4 **Notification of address and fax number**

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to Clause 31.2 (*Addresses*) or changing its own address or fax number, the Facility Agent shall notify the other Parties.

31.5 **Electronic communication**

(a) Any communication to be made between the Facility Agent and a Lender and/or any member of the Group under or in connection with the Finance Documents may be made by electronic mail or other electronic means, if the Facility Agent and the relevant Lender and/or member of the Group:

(i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;

(ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

(iii) notify each other of any change to their address or any other such information supplied by them.

(b) Any electronic communication made between the Facility Agent and a Lender and/or any member of the Group will be effective only when actually received in readable form and in the case of any electronic communication made by a Lender and/or any member of the Group to the Facility Agent only if it is addressed in such a manner as the Facility Agent shall specify for this purpose.

31.6 **English language**

(a) Any notice given under or in connection with any Finance Document must be in English.

(b) All other documents provided under or in connection with any Finance Document must be:

(i) in English or Spanish; or

(ii) if not in English or Spanish, and if so required by the Facility Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

31.7 **Obligor Agent**

(a) Each Obligor (other than the Company) by its execution of this Agreement or an Accession Letter (as the case may be) irrevocably appoints the Company to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises (i) the Company on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions (including, in the case of a Borrower, Utilisation Requests or Conversion Requests), to execute on its behalf any documents required hereunder and to make such agreements

capable of being given or made by any Obligor notwithstanding that they may affect such Obligor, without further reference to or consent of such Obligor; and (ii) each Finance Party to give any notice, demand or other communication to such Obligor pursuant to the Finance Documents to the Company on its behalf, and in each case such Obligor shall be bound thereby as though such Obligor itself had given such notices and instructions (including, without limitation, any Utilisation Requests or Conversion Requests) or executed or made such agreements or received any notice, demand or other communication.

(b) Every act, agreement, undertaking, settlement, waiver, notice or other communication given or made by the Company, or given to the Company, in its capacity as agent in accordance with paragraph (a) of this Clause 31.7, in connection with this Agreement shall be binding for all purposes on such Obligors as if the other Obligors had expressly made, given or concurred with the same. In the event of any conflict between any notices or other communications of the Company and any other Obligor, those of the Company shall prevail.

31.8 **Use of Websites**

(a) The Company may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the " **Website Lenders**") who accept this method of communication by posting this information onto an electronic website designated by the Company and the Facility Agent (the "**Designated Website**") if:

(i) the Facility Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;

(ii) both the Company and the Facility Agent are aware of the address of and any relevant password specifications for the Designated Website; and

(iii) the information is in a format previously agreed between the Company and the Facility Agent.

If any Lender (a "**Paper Form Lender**") does not agree to the delivery of information electronically then the Facility Agent shall notify the Company accordingly and the Company shall supply the information to the Facility Agent in paper form. In any event the Company shall supply the Facility Agent with at least one copy in paper form of any information required to be provided by it.

(b) The Facility Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Company and the Facility Agent.

(c) The Company shall promptly upon becoming aware of its occurrence notify the Facility Agent if:

(i) the Designated Website cannot be accessed due to technical failure;

(ii) the password specifications for the Designated Website change;

(iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;

(iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or

(v) the Company becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Company notifies the Facility Agent under paragraph (c)(i) or paragraph (c)(v) above, all information to be provided by the Company under this Agreement after the date of that notice shall be supplied in paper form unless and until the Facility Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

(d) Any Website Lender may request, through the Facility Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Company shall comply with any such request within ten Business Days.

32. CALCULATIONS AND CERTIFICATES

32.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

32.2 Certificates and Determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

32.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days, or where the interest, commission or fee is to accrue in respect of any amount denominated in sterling, 365 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

32.4 Spanish Civil Procedure

In the event that this Agreement is raised to a Spanish Public Document, for the purposes of Article 572.2 of the Spanish Civil Procedure Law (*Ley de Enjuiciamiento Civil*), all parties expressly agree that the exact amount due at any time by the Obligors to the Lenders will be the amount specified in a certificate issued by the Facility Agent (and/or any Lender) in accordance with Clause 32.2 (*Certificates and Determinations*) as representative of the Lenders reflecting the balance of the accounts referred to in Clause 32.1 (*Accounts*).

32.5 **No personal liability**

If an individual signs a certificate on behalf of any member of the Group and the certificate proves to be incorrect, the individual will incur no personal liability as a result, unless the individual acted fraudulently in giving the certificate. In this case any liability of the individual will be determined in accordance with applicable law.

33. **PARTIAL INVALIDITY**

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the laws or regulations of any other jurisdiction will in any way be affected or impaired.

34. **REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party or Finance Party, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law or regulation.

35. **AMENDMENTS AND WAIVERS**

35.1 **Required consents**

(a) Subject to Clause 35.2 (*Exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Company and any such amendment or waiver will be binding on all Parties.

(b) The Facility Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 35.

(c) The Company may effect, as agent of each Obligor, any amendment or waiver permitted by this Clause 35.

35.2 **Exceptions**

(a) An amendment or waiver that has the effect of changing or which relates to:

(i) the definition of "**Majority Lenders**" in Clause 1.1 *(Definitions)*;

(ii) an extension to the Availability Period or to the date of any scheduled payment of any amount under the Finance Documents;

(iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;

(iv) a change in currency of payment of any amount under the Finance Documents;

(v) an increase in or an extension of any Commitment;

(vi) a change to the Borrowers or any of the Guarantors other than in accordance with Clause 25 (*Changes to the Obligors*);

(vii) any provision which expressly requires the consent of all the Lenders; or

(viii) Clause 2.2 (*Finance Parties' rights and obligations)*, Clause 18 (*Guarantee and Indemnity*), Clause 24 (*Changes to the Lenders*), Clause 25 (*Changes to the Obligors*) (save to the extent a provision of Clause 25 refers only to requiring the approval of the Majority Lenders) or this Clause 35,

shall not be made without the prior consent of all the Lenders.

(b) An amendment or waiver which relates to the rights or obligations of the Facility Agent or the Documentation Agent, may not be effected without the consent of the Facility Agent or the Documentation Agent at such time.

(c) If any Lender fails to respond to a request for a consent, waiver, amendment of or in relation to any of the terms of any Finance Document or other vote of Lenders under the terms of this Agreement within 15 Business Days (unless the Company and the Facility Agent agree to a longer time period in relation to any request) of that request being made (and Lenders whose Commitments aggregate more than 50 per cent. of the Total Commitments have responded (whether to accept or decline such request)), its Commitment and/or participation shall not be included for the purpose of calculating the Total Commitments or participations under the relevant Facility(ies) when ascertaining whether any relevant percentage of Total Commitments and/or participations has been obtained to approve that request.

35.3 **Replacement of Lender**

(a) If at any time any Lender becomes a Non-Consenting Lender (as defined in paragraph (c) below), then the Company may, on five Business Days' prior written notice to the Facility Agent and such Lender, replace such Lender by requiring such Lender to (and such Lender shall) transfer pursuant to Clause 24 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement to a Lender or other bank, financial institution, trust, fund or other entity (a " **Replacement Lender**") selected by the Company, and which is acceptable to the Facility Agent (acting reasonably) which confirms its willingness to assume and does assume all the obligations of the transferring Lender (including the assumption of the transferring Lender's participations on the same basis as the transferring Lender) for a purchase price in cash payable at the time of transfer equal to the outstanding principal amount of such Lender's participation in the outstanding Loans and all accrued interest and/or Break Costs and other amounts payable in relation thereto under the Finance Documents.

(b) The replacement of a Lender pursuant to this Clause shall be subject to the following conditions:

(i) the Company shall have no right to replace the Facility Agent;

(ii) neither the Facility Agent nor the Lender shall have any obligation to the Company to find a Replacement Lender;

(iii) in the event of a replacement of a Non-Consenting Lender such replacement must take place no later than 90 days after the date the Non-Consenting Lender notifies the Company and the Facility Agent of its failure or refusal to give a consent in relation to, or agree to any waiver or amendment to the Finance Documents requested by the Company; and

(iv) in no event shall the Lender replaced under this paragraph (b) be required to pay or surrender to such Replacement Lender any of the fees already received by such Lender pursuant to the Finance Documents.

(c) In the event that:

(i) the Company or the Facility Agent (at the request of the Company) has requested the Lenders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Finance Documents;

(ii) the consent, waiver or amendment in question requires the approval of all the Lenders; and

(iii) Lenders whose Commitments aggregate more than 80 per cent. of the Total Commitments have consented or agreed to such waiver or amendment,

then any Lender who does not and continues not to consent or agree to such waiver or amendment shall be deemed a " **Non-Consenting Lender**".

36. COUNTERPARTS

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

SECTION 12
GOVERNING LAW AND ENFORCEMENT

37. **GOVERNING LAW**

This Agreement and all non-contractual obligations arising from or connected with it are governed by English law.

38. **ENFORCEMENT**

38.1 **Jurisdiction of English Courts**

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to non-contractual obligations arising from or in connection with this Agreement or a dispute regarding the existence, validity or termination of this Agreement) (a "**Dispute**").

(b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) This Clause 38.1 is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law or regulation, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

38.2 **Service of process**

Without prejudice to any other mode of service allowed under any relevant law or regulation, each Obligor (other than an Obligor incorporated in England and Wales):

(a) shall irrevocably appoint the Process Agent as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document and shall procure that the Process Agent confirms its acceptance of that appointment in writing on or before the date of this Agreement; and

(b) agrees that failure by the Process Agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1
THE ORIGINAL PARTIES

Part I
The Obligors

Name of Original Borrower	Registration number (or equivalent, if any)
CEMEX España, S.A.	Nº Hoja-Registro Mercantil, Madrid: M- 156542 NIF: A46/004214

Name of Original Guarantor	Registration number (or equivalent, if any)
CEMEX, Inc.	72-0296500
CEMEX Australia Holdings Pty Limited	ABN 46 122 401 405

Part II
The Original Lenders

Lender	Facility A Commitment (US$)	Facility B Commitment (€)
Banco Bilbao Vizcaya Argentaria, S.A.	zero	48,000,000.00
Banco Español de Crédito, S.A.	zero	40,000,000.00
Banco Santander, S.A.	105,000,000.00	307,000,000.00
Bank of America, N.A.	150,000,000.00	zero
Caixa d'Estalvis I Pensions de Barcelona	zero	70,000,000.00
Banco Caixa Geral, S.A.	zero	50,000,000.00
Caja de Ahorros y Monte de Piedad de Madrid	zero	20,000,000.00
HSBC Bank, Plc Sucursal en España	zero	30,000,000.00
Lloyds TSB Bank plc	zero	22,500,000.00
The Royal Bank of Scotland plc	362,500,000.00	zero
TOTAL	**617,500,000.00**	**587,500,000.00**

SCHEDULE 2
CONDITIONS PRECEDENT

Part I
Conditions Precedent to Initial Utilisation

1. **The Original Obligors**

(a) A copy of the current constitutional documents of each Original Obligor or, in the case of the Company, a certificate or an excerpt from the relevant Mercantile Registry including its updated bylaws.

(b) A copy of a good standing certificate (including verification of tax status) with respect to each U.S. Guarantor, issued as of a recent date by the Secretary of State or other appropriate official of such U.S. Guarantor's jurisdiction of incorporation or organisation.

(c) A power of attorney granting a specific individual or individuals sufficient power to sign the Finance Documents on behalf of each Original Obligor (if applicable) and a copy of a resolution of the board of directors of the Original Obligor or, in the case of the Company, a certificate of such resolution issued by the secretary to the board of directors with the approval of the president raised to public document status:

(i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;

(ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf including, in the case of the Company, the authority to irrevocably appoint a process agent ("*madatario ad litem*") (unless such appointment has been authorised by other means by a duly authorised representative of the Company); and

(iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.

(d) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above in relation to the Finance Documents.

(e) A certificate of each Original Obligor (signed by an Authorised Signatory or, in the case of the Company, signed by the secretary to the board of directors) confirming that borrowing or, as the case may be, guaranteeing, the Total Commitments would not cause any borrowing, guaranteeing or similar limit binding on it to be exceeded.

(f) A certificate of an Authorised Signatory of each Original Obligor or, in the case of the Company, of the secretary to the board of directors, certifying that each copy document relating to it specified in this Part I of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

(g) A certificate of an Authorised Signatory of the Company confirming that none of the amounts borrowed by the Company under the Facilities will be used to, and none of the Existing Bilateral Debt was used to, subscribe for equity in CEMEX Australia or any Holding Company of CEMEX Australia, and that it has been advised that CEMEX Australia's entry into this Agreement will not contravene Chapter 2J of the Corporations Act 2001 (Cth).

2. **Finance Documents**

(a) This Agreement executed by the parties hereto.

(b) Any Fee Letter.

3. **Legal Opinions**

(a) A legal opinion as to English law from Clifford Chance, substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(b) A legal opinion with respect to the laws and regulations of the Kingdom of Spain from Clifford Chance SL, substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(c) A legal opinion as to Australian law from Minter Ellison substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(d) A legal opinion as to Louisiana law from Liskow & Lewis substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(e) An opinion from in-house counsel of the Company, substantially in the form distributed to the Original Lenders prior to signing this Agreement.

4. **Other Documents and Evidence**

(a) Evidence that the fees, costs and expenses then due from the Company pursuant to Clause 12 (*Fees*) have been paid or will be paid on the First Utilisation Date.

(b) The Original Financial Statements of the each Obligor and the semi annual consolidated financial statements of the Company for the half year ended 30 June 2008.

(c) Evidence that the process agent referred to in Clause 38.2 (*Service of process*) has accepted its appointment.

(d) In relation to the Company, a copy of form PE-1 stamped by the Bank of Spain (Banco de España), whereby it assigns a Financial Operation Number ("**NOF**") in relation to this Agreement if legally necessary.

(e) A certificate of an Authorised Signatory from the finance department of each U.S. Guarantor stating that the respective company is Solvent after giving effect to the initial Loans, the application of the proceeds of the Loans in accordance with Clause 3 (*Purpose*) and the payment of all estimated legal, accounting and other fees related to this Agreement and the consummation of the other transactions contemplated by this Agreement. For purposes of this certificate, "**Solvent**" means, with respect to any Person, that such Person (a) owns and will own assets the fair saleable value of which are (i) greater than the total amount of its debts and liabilities, subordinated, contingent or otherwise; and (ii) greater than the amount that will be required to pay the probable liabilities of its then existing debts, as such debts become absolute and matured and considering all financing alternatives and potential asset sales reasonably available to it; (b) has capital that is not unreasonably small in relation to its business as presently conducted and as proposed to be conducted following the Effective Date; (c) does not intend to incur and does not believe that it will incur debts beyond its ability to pay such debts as they become due; and (d) is not, or is not deemed to be, in general default of its obligations pursuant to the Mexican Ley de Concursos Mercantiles. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability. For the purposes of this definition "**fair saleable value**" means the aggregate amount of net consideration (giving effect to reasonable and customary costs of sale and taxes) that could be expected to be realized if the aggregate assets of the applicable entity are sold with reasonable promptness in an arm's length transaction under present conditions for the sale of assets of comparable business enterprises.

Part II
Conditions Precedent Required to be delivered by an Additional Obligor

Obligors:

1. An Accession Letter, duly executed by the Additional Obligor and the Company.

(a) A copy of the constitutional documents of the Additional Obligor or, in the case of an Additional Obligor incorporated in Spain, a certificate from the relevant Mercantile Registry including its updated bylaws.

(b) A copy of a good standing certificate (including verification of tax status) with respect to that Additional Obligor if it is a U.S. Guarantor, issued as of a recent date by the Secretary of State or other appropriate official of such U.S. Guarantor's jurisdiction of incorporation or organisation.

(c) A copy of a resolution of the board of directors of the Additional Obligor or, in the case of an Additional Obligor incorporated in Spain, a certificate of such resolution issued by the secretary to the board of directors with the approval of the president raised to public document status:

(i) approving the terms of, and the transactions contemplated by, the Accession Letter and the Finance Documents and resolving that it execute the Accession Letter;

(ii) authorising a specified person or persons to execute the Accession Letter and other Finance Documents on its behalf including, in the case of an Additional Obligor incorporated in Spain, the authority to irrecovably appoint a process agent (" *madatario ad litem*"); and

(iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.

(d) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above.

(e) Should the legal advisers of the Lenders consider it advisable, a copy of a resolution signed by all the holders of the issued shares of the Additional Obligor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Obligor is a party.

(f) A certificate of the Additional Obligor (signed by an Authorised Signatory) confirming that guaranteeing the Total Commitments would not cause any guaranteeing or similar limit binding on it to be exceeded.

(g) A certificate of an Authorised Signatory of the Additional Obligor certifying that each copy document listed in this Part II of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of the Accession Letter.

2. **Legal opinions**

(a) A legal opinion of the legal advisers to the Additional Obligor in form and substance reasonably satisfactory to the legal advisers of the Lenders.

(b) A legal opinion of Clifford Chance, or other firm that can opine for the Additional Obligor if not Clifford Chance, legal advisers to the Lenders.

3. **Other documents and evidence**

(a) Evidence that any process agent referred to in Clause 38.2 (*Service of process*) has accepted its appointment.

(b) In relation to any Additional Borrower incorporated in Spain, a copy of form PE-1 stamped by the Bank of Spain (Banco de España), whereby it assigns a Financial Operation Number (" **NOF**") to the accession of such Additional Borrower.

(c) A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent considers (after having taken appropriate legal advice) to be necessary or desirable (if it has notified the Additional Obligor and the Company accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

(d) The Original Financial Statements of the Additional Guarantor.

(e) A certificate of an Authorised Signatory from the finance department of that Additional Obligor if it is a U.S. Guarantor stating that the respective company is Solvent after giving effect to the initial Loans, the application of the proceeds of the Loans in accordance with Clause 3 (*Purpose*) and the payment of all estimated legal, accounting and other fees related to this Agreement and the consummation of the other transactions contemplated by this Agreement. For purposes of this certificate, " **Solvent**" means, with respect to any Person, that such Person (a) owns and will own assets the fair saleable value of which are (i) greater than the total amount of its debts and liabilities, subordinated, contingent or otherwise; and (ii) greater than the amount that will be required to pay the probable liabilities of its then existing debts, as such debts become absolute and matured and considering all financing alternatives and potential asset sales reasonably available to it; (b) has capital that is not unreasonably small in relation to its business as presently conducted and as proposed to be conducted following the Effective Date; (c) does not intend to incur and does not believe that it will incur debts beyond its ability to pay such debts as they become due; and (d) is not, or is not deemed to be, in general default of its obligations pursuant to the Mexican Ley de Concursos Mercantiles. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the

amount that can reasonably be expected to become an actual or matured liability. For the purposes of this definition " **fair saleable value**" means the aggregate amount of net consideration (giving effect to reasonable and customary costs of sale and taxes) that could be expected to be realized if the aggregate assets of the applicable entity are sold with reasonable promptness in an arm's length transaction under present conditions for the sale of assets of comparable business enterprises.

SCHEDULE 3
REQUESTS

Part I
Utilisation Request

From: [*Each relevant Borrower*]

To: [*Agent*]

Dated:

Dear Sirs

CEMEX – US$[ ] and €[ ] Facilities Agreement
dated [●] (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.

2. We wish to borrow a Loan under each Facility on the following terms:

		Facility A	Facility B
(a)	Proposed Utilisation Date:	[●] (or, if that is not a Business Day, the next Business Day)	[●] (or, if that is not a Business Day, the next Business Day)
(b)	Borrower:	[●]	[●]
(c)	Facility to be utilised:	Facility A	Facility B
(d)	Currency of Loan:	USD	EUR
(e)	Amount:	[●] or, if less, the relevant Available Facility	[●] or, if less, the relevant Available Facility
(f)	Interest Period:	[●]	[●]

3. We confirm that, to the extent applicable, each condition specified in Clause 4.2 (*Further conditions precedent*) is satisfied or waived on the date of this Utilisation Request.

4. The proceeds of each Loan should be credited to the relevant accounts as follows:

Facility A Loan: [ ].

Facility B Loan: [ ].

5. This Utilisation Request is irrevocable.

6. Terms used in this Utilisation Request which are not defined in this Utilisation Request but are defined in the Facilities Agreement shall have the meaning given to those terms in the Facilities Agreement.

Yours faithfully

_____

authorised signatory for

[each relevant Borrower]

Part II
Selection Notice

From: [*Borrower] [Company*]*

To: [*Agent*]

Dated:

Dear Sirs

CEMEX – US$[ ] and €[ ] Facilities Agreement
dated [●] (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Selection Notice. Terms defined in the Facilities Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.

2. We refer to the following Facility [A]/[B] Loan[s] with an Interest Period ending on [ ]**.

3. [We request that the above Facility [A]/[B] Loan[s] be divided into [ ] Facility [A]/[B] Loan[s] with the following amounts and Interest Periods:]***

   or

   [We request that the next Interest Period for the above Facility [A]/[B] Loan[s] is [ ]].****

4. This Selection Notice is irrevocable.

Yours faithfully

_____

authorised signatory for

[the Company on behalf of] [insert name of Relevant Borrower] *

NOTES:
* Amend as appropriate. The Selection Notice can be given by the Borrower or the Company.
** Insert details of all Term Loans for the relevant Facility which have an Interest Period ending on the same date.
*** Use this option if division of Loans is requested.
**** Use this option if sub-division is not required.

SCHEDULE 4
MANDATORY COST FORMULAE

1. The Mandatory Cost is an addition to the interest rate to compensate Lenders for the cost of compliance with (a) the requirements of the Bank of England and/or the Financial Services Authority (or, in either case, any other authority which replaces all or any of its functions) or (b) the requirements of the European Central Bank.

2. On the first day of each Interest Period (or as soon as possible thereafter) the Facility Agent shall calculate, as a percentage rate, a rate (the "**Additional Cost Rate**") for each Lender, in accordance with the paragraphs set out below. The Mandatory Cost will be calculated by the Facility Agent as a weighted average of the Lenders' Additional Cost Rates (weighted in proportion to the percentage participation of each Lender in the relevant Loan) and will be expressed as a percentage rate per annum.

3. The Additional Cost Rate for any Lender lending from a Facility Office in a Participating Member State will be the percentage notified by that Lender to the Facility Agent. This percentage will be certified by that Lender in its notice to the Facility Agent to be its reasonable determination of the cost (expressed as a percentage of that Lender's participation in all Loans made from that Facility Office) of complying with the minimum reserve requirements of the European Central Bank in respect of loans made from that Facility Office.

4. The Additional Cost Rate for any Lender lending from a Facility Office in the United Kingdom will be calculated by the Facility Agent as follows:

   (a) in relation to a sterling Loan:

   $$\frac{AB + C(B - D) + Ex\ 0.01}{100 - (A + C)}$$ *per cent. per annum*

   (b) in relation to a Loan in any currency other than sterling:

   $$\frac{Ex\ 0.01}{300}$$ *per cent. per annum*

   Where:

   A is the percentage of Eligible Liabilities (assuming these to be in excess of any stated minimum) which that Lender is from time to time required to maintain as an interest free cash ratio deposit with the Bank of England to comply with cash ratio requirements.

   B is the percentage rate of interest (excluding the Margin and the Mandatory Cost and, if the Loan is an Unpaid Sum, the additional rate of interest specified in paragraph (a) of Clause 9.3 (*Default interest*)) payable for the relevant Interest Period on the Loan.

C is the percentage (if any) of Eligible Liabilities which that Lender is required from time to time to maintain as interest bearing Special Deposits with the Bank of England.

D is the percentage rate per annum payable by the Bank of England to the Facility Agent on interest bearing Special Deposits.

E is designed to compensate Lenders for amounts payable under the Fees Rules and is calculated by the Facility Agent as being the average of the most recent rates of charge supplied by the Reference Banks to the Facility Agent pursuant to paragraph 7 below and expressed in pounds per £1,000,000.

5. For the purposes of this Schedule:

(a) "**Eligible Liabilities**" and "**Special Deposits**" have the meanings given to them from time to time under or pursuant to the Bank of England Act 1998 or (as may be appropriate) by the Bank of England;

(b) "**Fees Rules**" means the rules on periodic fees contained in the FSA Supervision Manual or such other law or regulation as may be in force from time to time in respect of the payment of fees for the acceptance of deposits;

(c) "**Fee Tariffs**" means the fee tariffs specified in the Fees Rules under the activity group A.1 Deposit acceptors (ignoring any minimum fee or zero rated fee required pursuant to the Fees Rules but taking into account any applicable discount rate); and

(d) "**Tariff Base**" has the meaning given to it in, and will be calculated in accordance with, the Fees Rules.

6. In application of the above formulae, A, B, C and D will be included in the formulae as percentages (i.e. 5 per cent. will be included in the formula as 5 and not as 0.05). A negative result obtained by subtracting D from B shall be taken as zero. The resulting figures shall be rounded to four decimal places.

7. If requested by the Facility Agent, each Reference Bank shall, as soon as practicable after publication by the Financial Services Authority, supply to the Facility Agent, the rate of charge payable by that Reference Bank to the Financial Services Authority pursuant to the Fees Rules in respect of the relevant financial year of the Financial Services Authority (calculated for this purpose by that Reference Bank as being the average of the Fee Tariffs applicable to that Reference Bank for that financial year) and expressed in pounds per £1,000,000 of the Tariff Base of that Reference Bank.

8. Each Lender shall supply any information required by the Facility Agent for the purpose of calculating its Additional Cost Rate. In particular, but without limitation, each Lender shall supply the following information on or prior to the date on which it becomes a Lender:

(a) the jurisdiction of its Facility Office; and

(b) any other information that the Facility Agent may reasonably require for such purpose.

Each Lender shall promptly notify the Facility Agent of any change to the information provided by it pursuant to this paragraph.

9. The percentages of each Lender for the purpose of A and C above and the rates of charge of each Reference Bank for the purpose of E above shall be determined by the Facility Agent based upon the information supplied to it pursuant to paragraphs 7 and 8 above and on the assumption that, unless a Lender notifies the Facility Agent to the contrary, each Lender's obligations in relation to cash ratio deposits and Special Deposits are the same as those of a typical bank from its jurisdiction of incorporation with a Facility Office in the same jurisdiction as its Facility Office.

10. The Facility Agent shall have no liability to any person if such determination results in an Additional Cost Rate which over or under compensates any Lender and shall be entitled to assume that the information provided by any Lender or Reference Bank pursuant to paragraphs 3, 7 and 8 above is true and correct in all respects.

11. The Facility Agent shall distribute the additional amounts received as a result of the Mandatory Cost to the Lenders on the basis of the Additional Cost Rate for each Lender based on the information provided by each Lender and each Reference Bank pursuant to paragraphs 3, 7 and 8 above.

12. Any determination by the Facility Agent pursuant to this Schedule in relation to a formula, the Mandatory Cost, an Additional Cost Rate or any amount payable to a Lender shall, in the absence of manifest error, be conclusive and binding on all Parties.

13. The Facility Agent may from time to time, after consultation with the Company and the Lenders, determine and notify to all Parties any amendments which are required to be made to this Schedule in order to comply with any change in law, regulation or any requirements from time to time imposed by the Bank of England, the Financial Services Authority or the European Central Bank (or, in any case, any other authority which replaces all or any of its functions) and any such determination shall, in the absence of manifest error, be conclusive and binding on all Parties.

SCHEDULE 5
FORM OF TRANSFER CERTIFICATE

To: [Agent]

CEMEX España, S.A.

From: [The Existing Lender] (the "**Existing Lender**") and [The New Lender] (the "**New Lender**")

Dated:

CEMEX – US$[ ] and €[ ] Facilities Agreement
dated [•] (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Transfer Certificate. Terms defined in the Facilities Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.

2. We refer to Clause 24.5 (*Procedure for transfer*):

   (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation all or part of the Existing Lender's Commitment, rights and obligations referred to in the schedule to this certificate in accordance with Clause 24.5 (*Procedure for transfer*).

   (b) The proposed Transfer Date is [•].

   (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 31.2 (*Addresses*) are set out in the schedule to this certificate.

3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 24.4 (*Limitation of responsibility of Existing Lenders*).

4. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.

5. We confirm that we have carried out and are satisfied with the results of all compliance checks we consider necessary in relation to our participation in the Facilities.

6. The New Lender confirms that it is not a U.S. Lender (and has not entered into a sub-participation agreement with a U.S. Lender in respect of the Commitment to be transferred pursuant hereto).

7. The New Lender confirms, for the benefit of the Facility Agent and the Company, that it is:

   (a) [a Qualifying Lender;]

   (b) [not a Qualifying Lender].

8. This Transfer Certificate is governed by English law.

THE SCHEDULE

Commitment/rights and obligations to be transferred

[*insert relevant details*]

[*Facility Office address, email, fax number and attention details for notices and account details for payments* ,]

[Existing Lender] [New Lender]

By: By:

This Transfer Certificate is accepted by the Facility Agent and the Transfer Date is confirmed as [•].

[Agent]

By:

SCHEDULE 6

FORM OF ACCESSION LETTER

To: [*Agent*]

From: [*Subsidiary*] and [*Company*]

Dated:

Dear Sirs

CEMEX – US$[ ] and €[ ] Facilities Agreement
dated [●] (the "Facilities Agreement")

1. [*Subsidiary*] agrees to become an [*Additional Guarantor/Additional Borrower*]* and to be bound by the terms of the Facilities Agreement and the other Finance Documents as an [*Additional Guarantor/Additional Borrower*]* pursuant to [Clause 25.3 (*Additional Guarantors*) / Clause 25.2 (*Additional Borrowers*)]* of the Facilities Agreement. [*Subsidiary*] is a limited liability company duly incorporated under the laws of [*name of relevant jurisdiction*] with registered number [●].

2. [*Subsidiary's*] administrative details are as follows:

   Address:

   Fax No.:

   Attention:

3. This letter is governed by English law.

4. Terms which are used in this Accession Letter which are not defined in this Accession Letter but are defined in the Facilities Agreement shall have the meaning given to those terms in the Facilities Agreement.

   [This Accession Letter is entered into and delivered as a deed.]**

   Signed by: _____ _____

   [Company] [Subsidiary]

NOTES:

* Delete as appropriate.

** If the Facilities are fully drawn there may be an issue in relation to past consideration for a proposed Additional Obligor. This can be overcome by acceding by way of deed.

SCHEDULE 7

FORM OF COMPLIANCE CERTIFICATE

To: [●] as Agent

From: [*Company*]

Dated:

Dear Sirs

CEMEX – US$[●] and €[●] Facilities Agreement
dated [●] (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Compliance Certificate. Terms defined in the Facilities Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2. We confirm that:

   (a) Pursuant to Clause 21.2 (*Financial condition*) the financial condition of the Group as of [ ] evidenced by the consolidated financial statements for the financial year/two financial half years then ended comply with the following conditions:

   (i) Net Borrowings EUR ("**A**")

   comprising EUR [Total Borrowings]

   EUR [Liquid Investments]

   (ii) Adjusted EBITDA

   comprising:

   EUR [operating profit]

   EUR [annual depreciation for fixed assets]

   EUR [annual amortisation of intangible assets]

   EUR [annual amortisation of start-up costs of the Group]

   EUR [dividends received from non-consolidated companies]

   EUR [dividends received from companies consolidated by the equity method]

   EUR [CEMEX Capital Contributions]

   EUR [Income for use of CO_2 Emission Rights (if not already included in operating profit)]

   EUR [acquired business (i) operating income and (ii) depreciation and amortisation expense]

			EUR _____ ("**B**")
	A:B is		[●]
(iii)	EBITDA		EUR _____ ("**B**")
	Finance Charges		
	comprising	EUR [interest expenses]	
		EUR [other expenses]	
			EUR _____ ("**C**")
	B:C to be greater than or equal to 3:1		

(b) As at the date of this Certificate the following Subsidiaries of the Group fall within the definition of Material Subsidiaries as set out in Clause 1.1 *(Definitions)*:

(c) As of [*end of Relevant Period*] the Consolidated Total Assets is: EUR [ ].

3. We confirm that no Default is continuing.

Signed: _____

Authorised Signatory
of
Company

[*insert applicable certification language*]

_____

For and on behalf of
[*name of auditors of the Company*]

SCHEDULE 8

TIMETABLES

	Loans in euro or US Dollars
Delivery of a duly completed Utilisation Request (Clause 5.1 (*Delivery of a Utilisation Request*)) or Selection Notice (Clause 10 (*Interest Periods*))	U-3 11.00 a.m.
Agent notifies the Lenders of the Loan in accordance with Clause 5.4 (*Lenders' participation*)	U-3 3.00 p.m.
LIBOR or EURIBOR is fixed	Quotation Day as of 11:00 a.m. London time in respect of LIBOR and as of 11.00 a.m. Brussels time in respect of EURIBOR

"**U**" = date of utilisation

"**U - X**" = X Business Days prior to date of utilisation

SCHEDULE 9

FORM OF CONFIDENTIALITY UNDERTAKING

[Letterhead of Existing Bank]

To:

[insert name of Potential Lender]

Re: **The Facilities**

Company: CEMEX España, S.A. (the "**Company**")
Date:
Amount: US$[•] and €[•]
Agent: The Royal Bank of Scotland plc

Dear Sirs

We understand that you are considering participating in the Facilities. In consideration of us agreeing to make available to you certain information, by your signature of a copy of this letter you agree as follows:

1. *Confidentiality Undertaking*: You undertake:

   (a) to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by paragraph 2 below and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information;

   (b) to keep confidential and not disclose to anyone except as provided for by paragraph 2 below the fact that the Confidential Information has been made available or that discussions or negotiations are taking place or have taken place between us in connection with the Facilities;

   (c) to use the Confidential Information only for the Permitted Purpose;

   (d) to use all reasonable endeavours to ensure that any person to whom you pass any Confidential Information (unless disclosed under paragraph 2(b) below) acknowledges and complies with the provisions of this letter as if that person were also a party to it; and

   (e) not to make enquiries of any member of the Group or any of their officers, directors, employees or professional advisers relating directly or indirectly to the Facilities.

2. *Permitted Disclosure*: We agree that you may disclose such Confidential Information and such of those matters referred to in paragraph 1(b) above to the extent necessary for the Permitted Purpose:

   (a) to members of the Participant Group and their officers, directors, employees, professional advisers and auditors if any person to whom the Confidential Information is to be given pursuant to this paragraph 2(a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information, except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

   (b) in the event that you become a Lender under the Facility Agreement, in accordance with and subject to the terms of clause 24.8 of the Facility Agreement;

   (c) to any person to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation; or

   (d) with the prior written consent of us and the Company.

3. *Notification of Disclosure*: You agree (to the extent permitted by law and regulation) to inform us:

   (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph 2(c) above except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

   (b) upon becoming aware that Confidential Information has been disclosed in breach of this letter.

4. *Return of Copies*: If we so request in writing, you shall return all Confidential Information supplied to you by us and destroy or permanently erase (to the extent technically practicable) all copies of Confidential Information made by you and use all reasonable endeavours to ensure that anyone to whom you have supplied any Confidential Information destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy, or where the Confidential Information has been disclosed under paragraph 2(c) above.

5. *Continuing Obligations*: The obligations in this letter are continuing and, in particular, shall survive the termination of any discussions or negotiations between you and us. Notwithstanding the previous sentence, the obligations in this letter shall cease on the earlier of (a) the date on which you become a party to the Facility Agreement or (b) twelve months after

the date at which you have returned all Confidential Information supplied by us to you and destroyed or permanently erased (to the extent technically practicable) all copies of Confidential Information made by you (other than any such Confidential Information or copies which have been disclosed under paragraph 2 above (other than paragraph 2(a)) or which, pursuant to paragraph 4 above, are not required to be returned or destroyed.

6. *No Representation; Consequences of Breach, etc*: You acknowledge and agree that:

(a) neither we nor any member of the Group nor any of our or their respective officers, employees or advisers (each a " **Relevant Person**") (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by us or any member of the Group or the assumptions on which it is based or (ii) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or any member of the Group or be otherwise liable to you or any other person in respect of the Confidential Information or any such information; and

(b) we or members of the Group may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person or member of the Group may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

7. *Entire Agreement*: This letter constitutes the entire agreement between us in relation to your obligations regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

8. *No Waiver*: No failure or delay in exercising any right or remedy under this letter will operate as a waiver thereof nor will any single or partial exercise of any right or remedy preclude any further exercise thereof or the exercise of any other right or remedy under this letter.

9. *Amendments, etc*: The terms of this letter and your obligations under this letter may only be amended or modified by written agreement between us.

10. *Inside Information*: You acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and you undertake not to use any Confidential Information for any unlawful purpose.

11. *Nature of Undertakings*: The undertakings given by you under this letter are given to us and (without implying any fiduciary obligations on our part) are also given for the benefit of the Company and each other member of the Group.

12. *Third party rights*: Subject to this paragraph 12 and to paragraphs 6 and 9, a person who is not a party to this letter has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this letter.

(a) The Relevant Persons and each member of the Group may enjoy the benefit of the terms of paragraphs 6 and 9 subject to and in accordance with this paragraph 12 and the provisions of the Third Parties Act.

(b) Notwithstanding any provisions of this letter, the parties to this letter do not require the consent of any Relevant Person or any member of the Group to rescind or vary this letter at any time.

13. *Governing Law and Jurisdiction*:

(a) This letter (including the agreement constituted by your acknowledgement of its terms) and all non-contractual obligations arising from or connected with it are governed by and shall be construed in accordance with English law.

(b) The parties submit to the non-exclusive jurisdiction of the English courts.

14. *Definitions*: In this letter (including the acknowledgement set out below):

"**Confidential Information**" means all information relating to the Company, any Obligor, the Group, the Finance Documents and/or the Facilities which is provided to you in relation to the Finance Documents or Facilities by us or any of our affiliates or advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

(a) is or becomes public information other than as a direct or indirect result of any breach of this letter;

(b) is identified in writing at the time of delivery as non-confidential by us or our advisers; or

(c) is known by you before the date the information is disclosed to you by us or any of our affiliates or advisers or is lawfully obtained by you after that date, from a source which is, as far as you are aware, unconnected with the Group and which, in either case, as far as you are aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

"**Facility Agreement**" means the facility agreement entered into or to be entered into in relation to the Facilities.

"**Finance Documents**" means the documents defined in the Facility Agreement as Finance Documents.

"**Group**" means the Company, each of its holding companies and its subsidiaries and each of the subsidiaries of each of its holding companies for the time being (as each such term is defined in the Companies Act 2006).

"**Obligor**" means a borrower or a guarantor under the Facility Agreement.

"**Participant Group**" means you, each of your holding companies and subsidiaries and each subsidiary of each of your holding companies (as each such term is defined in the Companies Act 2006).

"**Permitted Purpose**" means considering and evaluating whether to enter into the Facilities.

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

_____

For and on behalf of
[*Existing Bank*]

To: **[*Existing Bank*]**
The Company and each other member of the Group

We acknowledge and agree to the above:

_____

For and on behalf of
[*Potential Lender*]

SCHEDULE 10

EXISTING SECURITY

Company	Lender	Security	Total Principal Amount of Indebtedness Secured as of 30 September 2008 (millions of euro based on exchange rate of €1/US$1.433)
CEMEX, Inc.	Hampton	Land related with the Promissory Note	0.03
RMC Beton Šląsk Sp. z o.o.	SG Equipment Leasing Polska Sp. z.o.o.	Plant Equipment	1.61
CEMEX BETONS CENTRE et BRETAGNE	CITICAPITAL	Equipment related with the credit	0.01
CEMEX GRANULATS RHONE-MEDITERRANEE	SLIBAIL IMMOBILIER	Equipment related with the credit	0.56
CEMEX BETONS NORD QUEST	SLIBAIL IMMOBILIER	Equipment related with the credit	0.10
ETABLISSEMENT CHARROY	BAIL ACTEA	Equipment related with the credit	0.04
Cemex SIA	Disko Leasing GmbH	Truck finance lease	0.00
Transbeton Lieferbeton Gesellschaft m.b.H.	Raiffeisenbank Bruck an der Mur eg. Gen.	Equipment related with the credit	2.29
Quarzsandwerk Wellmersdorf GmbH & Co. KG	Raiffeisenbank Obermain Nord eG	Land related with the credit	0.03
CEMEX Kies Hamburg GmbH & Co. KG	Kreissparkasse Herzogfum Lauenburg	Land related with the credit	0.21
Cemex UK Operations Limited	ING Lease (UK) Limited	Equipment related with the credit	14.89
Cemex UK Operations Limited	Lloyds TSB Asset Finance	Equipment related with the credit	2.77
RMC Beton Šląsk Sp. z o.o.	Bankowy Fundusz Leasingowy S.A.	Plant Equipment	0.01
Denis Tarrant & Sons Limited	National Irish Asset Finance Limited	Plant Equipment	0.98
TOTAL			23.50

SCHEDULE 11

MATERIAL SUBSIDIARIES

As of September 30, 2008

CEMEX, Inc

CEMEX Construction Materials Pacific LLC

CEMEX Materials, LLC

CEMEX UK Operations Limited

CEMEX Deutschland AG

CEMEX Investment Limited

CEMEX France Gestion

SCHEDULE 12
EXISTING BILATERAL DEBT

Borrower	Lender	Amount to be refinanced with First Utilisation	
		Facility A (USD)	Facility B (EUR)
Cemex España, S.A.	Lloyds TSB Bank plc		22,500,000.00
Cemex España, S.A.	The Royal Bank of Scotland plc	250,000,000.00	
Construction Funding Corporation	Banco Santander, S.A.	100,000,000.00	
Cemex España, S.A.	Banco Santander, S.A.		227,000,000.00
Cemex Trading Europe S.A. Unipersonal	Banco Santander, S.A.	5,000,000.00	
Cemex España, S.A.	Banco Santander, S.A.		80,000,000.00
Cemex España, S.A. & Cemex Trading Europe S.A.	Banco Bilbao Vizcaya Argentaria, S.A.		48,000,000.00
Cemex España, S.A.	Caixa d'Estalvis I Pensions de Barcelona		50,000,000.00
Cemex España, S.A.	Banco Caixa Geral, S.A.		50,000,000.00
Cemex España, S.A.	Banco Español de Crédito, S.A.		40,000,000.00
Cemex España, S.A.	HSBC Bank, Plc Sucursal en España		30,000,000.00
Cemex España, S.A.	Caja de Ahorros y Monte de Piedad de Madrid		20,000,000.00
Cemex Materials, LLC	Bank of America, N.A.	37,500,000.00	
Cemex Materials, LLC	Bank of America, N.A.	112,500,000.00	
Cemex Materials, LLC	The Royal Bank of Scotland plc (ABN-AMRO Bank NV)	112,500,000.00	
TOTAL		**617,500,000.00**	**567,500,000.00**

SCHEDULE 13

EXISTING FINANCIAL INDEBTEDNESS

As of 30 September 2008

€ millions
FX rate $/€: 1.4075

BORROWER	INSTRUMENT	OUTSTANDING AMOUNT (€ million)	FINAL MATURITY
CEMEX UK	Loan Notes	9.85	Dec' 2009
	SUBTOTAL	**9.85**	
CEMEX, INC.	Bond Issues	121.02	Jul' 2025
	SBLC T.E. Bonds*	30.82	Feb' 2013 to Mar' 2025
	LT debt with credit entities	139.43	Mar' 2010 & Apr' 2011
	ST debt with credit entities	312.37	Dec' 2008 to Apr' 2009
	SUBTOTAL	**603.63**	
CEMEX INVESTMENTS LIMITED	Loan Notes	2.18	Between 2008 - 2014
	LT debt with credit entities	11.96	
	ST debt with credit entities	26.07	
	Other Debt	5.13	
	SUBTOTAL	**45.33**	
PUERTO RICAN CEMENT COMPANY	Credit Line (US$30mm)	21.35	Aug' 2009
	SUBTOTAL	**21.35**	
CONSTRUCTION FOUNDING CORPORATION	Debt with credit entities	58.80	Feb' 2009
	SUBTOTAL	**58.80**	
CEMEX FRANCE GESTION	Debt with credit entities	3.82	
	Debt with Group & Associated Companies	4.26	Between 2008 - 2013
	Other Debt	2.64	
	SUBTOTAL	**10.71**	
OTHER COMPANIES	Debt with Group & Associated Companies	0.36	
	ST debt with credit entities	30.16	
	Other	2.27	
	SUBTOTAL	**32.78**	
	TOTAL	**782.46**	

* Stand by letters of credit over tax-exempt bonds. Maturities shown correspond to these bonds. SBLC renewed on an annual basis.

SCHEDULE 14

PROCEEDINGS PENDING OR THREATENED

1. Environmental Matters

United States

As of 31 December 2008, CEMEX, Inc. and its subsidiaries had accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately U.S.$43 million. The environmental matters relate to (i) the disposal of various materials, in accordance with past industry practice, which might be categorized as hazardous substances or wastes, and (ii) the cleanup of sites used or operated by CEMEX, Inc., including discontinued operations, regarding the disposal of hazardous substances or wastes, either individually or jointly with other parties. Most of the proceedings are in the preliminary stage, and a final resolution might take several years. For purposes of recording the provision, CEMEX, Inc. considers that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. The ultimate cost that might be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work, and negotiations with or litigation against potential sources of recovery have been completed.

CEMEX Construction Materials Florida, LLC f/k/a Rinker Materials of Florida, Inc. (" **CEMEX Florida**"), a subsidiary of CEMEX, Inc., holds one federal quarry permit and is the beneficiary of one of 10 other federal quarrying permits granted for the Lake Belt area in South Florida. The permit held by CEMEX Florida covers CEMEX Florida's SCL and FEC quarries. CEMEX Florida's Krome quarry is operated under one of the other federal quarry permits. The FEC quarry is the largest of CEMEX Floridas' quarries measured by volume of aggregates mined and sold. CEMEX Florida's Miami cement mill is located at the SCL quarry and is supplied by that quarry. A ruling was issued on 22 March 2006 by a judge of the U.S. District Court for the Southern District of Florida in connection with litigation brought by environmental groups concerning the manner in which the permits were granted. Although not named as a defendant, CEMEX Florida has intervened in the proceedings to protect its interests. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the relevant governmental agencies in connection with the issuance of the permits. The judge remanded the permits to the relevant governmental agencies for further review, which review the governmental agencies have indicated in a recent announcement should take until mid February 2009 to conclude. The judge also conducted further proceedings to determine the activities to be conducted during the remand period. In July 2007, the judge issued a ruling that halted certain quarrying operations at three non-CEMEX Florida quarries. The judge left in place CEMEX Florida's Lake Belt permits until the relevant government agencies complete their review. In a May 2008 ruling, the federal appellate court determined that the district court judge did not apply the proper standard of review to the permit issuance decision of the governmental agency, vacated the district court's prior order, and remanded the proceeding to the district court to apply the proper standard of review; this review remains pending before the district court judge. If the Lake Belt permits are ultimately set aside or quarrying operations under them restricted, CEMEX Florida will need to source aggregates, to the extent available, from other locations in Florida or import aggregates. This would likely affect profits from our Florida operations. Any adverse impacts on the Florida economy arising from the cessation or significant restriction of quarrying operations in the Lake Belt could also have a material adverse effect on our financial results.

Europe

In Great Britain, future expenditure on closed and current landfill sites has been assessed and quantified over the period in which the sites are considered to have the potential to cause environmental harm, generally consistent with the regulator view of up to 60 years from the date of closure. The assessed expenditure relates to the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure. The costs have been quantified on a net present value basis in the amount of approximately £122 million, and an accounting provision for this sum has been made at 31 December 2007.

In 2003, the European Union adopted a directive implementing the Kyoto Protocol on climate change and establishing a greenhouse gas emissions allowance trading scheme within the European Union. The directive requires Member States to impose binding caps on carbon dioxide emissions from installations involved in energy activities, the production and processing of ferrous metals, the mineral industry (including cement production) and the pulp, paper or board production business. Under this scheme, companies with operations in these sectors receive from the relevant Member States allowances that set limitations on the levels of greenhouse gas emissions from their installations. These allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that are not reaching their emissions objectives. Companies can also use credits issued from the use of the flexibility mechanisms under the Kyoto protocol to fulfill their European obligations. These flexibility mechanisms provide that credits (equivalent to allowances) can be obtained by companies for projects that reduce greenhouse gas emissions in emerging markets. These projects are referred to as Clean Development Mechanism ("**CDM**") or joint implementation projects depending on the countries where they take place. Failure to meet the emissions caps is subject to heavy penalties.

Companies can also use, up to a certain level, credits issued under the flexible mechanisms of the Kyoto protocol to fulfill their European obligations. Credits for Emission Reduction projects obtained under these mechanisms are recognized, up to a certain level, under the European emission trading scheme as allowances. To obtain these emission reduction credits, companies must comply with very specific and restrictive requirements from the United Nations Convention on Climate Change (UNFCC).

As required by directive, each of the Member States established a National Allocations Plan, or NAP, setting out the allowance allocations for each industrial facility for Phase I, from 2005 to 2007. Based on the NAPs established by the Member States of the European Union for the 2005 to 2007 period and our actual production, on a consolidated basis after trading allowances between our operations in countries with a deficit of allowances and our operations in countries with an excess of allowances, and after some external operations, Borrower's Subsidiaries had a surplus of allowances of approximately 1,050,054 tons of carbon dioxide in this Phase I.

For Phase II, comprising 2008 through 2012, however, there has been a reduction in the allowances granted by the Member States that have already approved their NAP, which may result in a consolidated deficit in our carbon dioxide allowances during the period. We believe we may be able to reduce the impact of any deficit by either reducing carbon dioxide emissions in our facilities or by

obtaining additional emission credits through the implementation of CDM projects. If we are not successful in implementing emission reductions in our facilities or obtaining credits from CDM projects, we may have to purchase a significant amount of emission credits in the market, because CEMEX has already sold a substantial amount of allowances for Phase II, the cost of which may have an impact on our operating results. As of 1 December 2008, the market value of carbon dioxide allowances for Phase II was approximately 15.45 € per ton. CEMEX is taking all the measures to minimize our exposure to this market while assuring the supply of our products to our clients.

The Spanish NAP has been finally approved by the Spanish Government, reflecting the conditions that were set forth by the European Commission. The allocations made to our installations allow us to foresee certain availability of allowances, nevertheless, there remains the uncertainty regarding the allocations that, against the reserve for new entrants, shall be requested for the new CEMEX cement plant in Andorra (Teruel), and that it is scheduled to start operating in 2010.

On 29 May 2007, the Polish government filed an appeal before the Court of First Instance in Luxemburg regarding the European Commission's rejection of the initial version of the Polish NAP. The Court has denied Poland's request for a quick path verdict in the case, keeping the case in the regular proceeding path, therefore, the Polish government has started to prepare Polish internal rules on division of allowance at the level already accepted by the European Commission. Seven major Polish cement producers, representing 98% of Polish cement production (including CEMEX Polska), have also filed seven separate appeals before the Court of First Instance regarding the European Commission's rejection. On 29 September 2008 the Court of the First Instance issued an order rejecting CEMEX Polska's appeal without going into the merit of the case. As of 31 December 2008 the final version of the Polish NAP has not been cleared by the Commission; CEMEX has not determined the impact this may have on CEMEX's position in the country.

2. **Tax Matters**

Philippines

As of 31 December 2008, the Philippine Bureau of Internal Revenue (BIR), had assessed APO, Solid, IQAC, ALQC and CSPI, our operating subsidiaries in the Philippines, for deficiency taxes covering taxable years 1998-2005 amounting to a total of approximately 1,994 million Philippine Pesos (approximately U.S.$41.96 million as of 31 December 2008, based on an exchange rate of Philippine Pesos 47.52 to U.S.$1.00, which was the Philippine Peso/Dollar exchange rate on 31 December 2008 as published by the Bangko Sentral ng Pilipinas, the central bank of the Republic of the Philippines).

The majority of the tax assessments result primarily from the disallowance of APO's income tax holiday incentives for taxable years 1999 to 2001 (approximately Philippine Pesos 1,078 million or U.S.$22.68 million as of 31 December 2008, based on an exchange rate of Philippine Pesos 47.52 to U.S.$1.00). We have contested the BIR's assessment, arising from the disallowance of the ITH incentive, with the Court of Tax Appeals (CTA). The initial Division ruling of the CTA was unfavorable, but is subject to further appeal with the CTA as a whole. The assessment is now currently on appeal with the CTA En Banc. A motion was filed with the CTA, requesting the court to hold APO totally not liable for alleged income tax liabilities for all the years covered and to this end cancel and withdraw APO's deficiency income tax assessments for taxable years 1999, 2000 and 2001 on the basis of APO's availment of the tax amnesty described below. As of 31 December 2008, resolution on the aforementioned motion is still pending.

3. **CEMEX Venezuelan Nationalization**

In furtherance of Venezuela's announced policy to nationalize certain sectors of the economy, on 18 June 2008, the Nationalization Decree was promulgated, mandating that the cement production industry in Venezuela be reserved for the Government of Venezuela and ordering the conversion of foreign-owned cement companies, including CEMEX Venezuela, into state-controlled companies with Venezuela holding an equity interest of at least 60%. The Nationalization Decree provided for the formation of a transition committee to be integrated with the board of directors of the relevant cement company to guaranty the transfer of control over all activities of the relevant cement company to Venezuela by 31 December 2008. The Nationalization Decree further established a deadline of 17 August 2008 for the shareholders of foreign-owned cement companies, including CEMEX Venezuela, to reach an agreement with the Government of Venezuela on the compensation for the nationalization of their assets. The Nationalization Decree also provided that this deadline may be extended by mutual agreement of the Government of Venezuela and the relevant shareholder. The transition committee, which was to be coordinated by the Ministry of Basic Industries (MIBAN), was never formally instituted and MIBAN never acted in the process, but instead Petroleos de Venezuela (PDVSA) conducted all the conversations.

CEMEX Venezuela and the Government did not reach agreement by the August 17 2008 deadline, and on August 18 2008 the Expropriation Decree was issued by the President of Venezuela, with PDVSA appointed to conduct the expropriation proceedings. Although these proceedings had not yet commenced, PDVSA officials headed a group of PDVSA workers, with the support of the public force, to take over all the facilities of CEMEX Venezuela on August 17 2008. Since no agreement has been reached with the Venezuelan Government as to the compensation to be paid, the Dutch companies that control CEMEX Venezuela filed an arbitration request before the International Center for the Settlement of Investment Disputes against the Government of Venezuela, which request has been registered and the tribunal is in the process of being formed.

As of 31 December 2007, CEMEX Venezuela, S.A.C.A. was the holding entity of several of CEMEX's investments in the region, including CEMEX's operations in the Dominican Republic and Panama, as well as CEMEX's minority investment in Trinidad & Tobago. In the wake of statements by the Government of Venezuela about the nationalization of assets in Venezuela, in April 2008, CEMEX concluded the transfer of all material non-Venezuelan investments to CEMEX España for approximately U.S.$355 million plus U.S.$112 million of net debt, having distributed all accrued profits from the non-Venezuelan investments to the stockholders of CEMEX Venezuela amounting to approximately U.S.$132 million. At this time, the net impact or the outcome of the nationalization on CEMEX's consolidated financial results cannot be reasonably estimated. As of 31 December 2008, the net assets of CEMEX's Venezuelan operations under Mexican FRS were approximately US$451.7 million. Since August 2008, CEMEX no longer consolidates the financial results of CEMEX Venezuela.

On 13 June 2008, the Venezuelan securities authority initiated an administrative proceeding against CEMEX Venezuela, claiming that the company did not sufficiently inform its shareholders and the securities authority in connection with the transfer of the non-Venezuelan assets described above. The Venezuelan authority determined that CEMEX Venezuela did not comply with its disclosure obligations and imposed fines on the company, which we do not consider material, and requested the attorney general's office to review the case to determine if such non-disclosure also constituted criminal infringement.

4. **Other Legal Proceedings**

On 5 August 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia, claiming that it was liable along with the other members of the Asociación Colombiana de Productores de Concreto, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system of Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads in a manner which guarantees their service during the 20-year period for which they were originally designed, and estimate that the cost of such repair will be approximately U.S.$45 million. The lawsuit was filed within the context of a criminal investigation of two ASOCRETO officers and other individuals, alleging that the ready-mix concrete producers were liable for damages if the ASOCRETO officers were criminally responsible. The court completed the evidentiary stage, and on 17 August 2006 dismissed the charges against the members of ASOCRETO. The other defendants (one ex-director of the Distrital Institute of Development, the legal representative of the constructor and the legal representative of the contract auditor) were formally accused. The decision was appealed, and on 11 December 2006, the decision was reversed and the two ASOCRETO officers were formally accused as participants (determiners) in the execution of a state contract without fulfilling all legal requirements thereof. The first public hearing took place on 20 November 2007. In this hearing the judge dismissed an annulment petition filed by the ASOCRETO officers. The petition was based on the fact that the officers were formally accused of a different crime than the one they were being investigated for. This decision was appealed, but the decision was confirmed by the Superior Court of Bogota. On 21 January 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called El Tujuelo, as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required within a period of 10 days to deposit with the Court in cash CoP$337,800 million (approximately U.S.$195 million as of 4 June 2008, based on an exchange rate of CoP1730 to U.S.$1.00, which was the Colombian Peso/Dollar exchange rate on 4 June 2008, as published by the Banco de la República de Colombia, the central bank of Colombia), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. The measure does not affect the normal activity of the quarry. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.

On 5 August 2005, Cartel Damages Claims, SA, or CDC, filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG and other German cement companies. CDC is seeking €102 million in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002, which entities had assigned their claims to CDC. CDC is a Belgian company established by two lawyers in the aftermath of the German

cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office with the express purpose of purchasing potential damages claims from cement consumers and pursuing those claims against the cartel participants. In January 2006, another entity assigned alleged claims to CDC, and the amount of damages being sought by CDC increased to €113.5 million plus interest. On February 21 2007, the District Court of Düsseldorf decided to allow this lawsuit to proceed without going into the merits of this case by issuing an interlocutory judgment. All defendants appealed. The appeal hearing took place on 22 April 2008, and the appeal was dismissed on 14 May 2008. The lawsuit will proceed at the level of court of first instance. As of 30 September 2008 only one defendant has decided to file a complaint before the Federal High Court; this will delay the case from proceeding at the level of first instance to an extent we cannot assess today. In the meantime, CDC had acquired new assigners and announced an increase in the claim to €131 million. As of 30 November 2008, we had accrued liabilities regarding this matter for a total amount of approximately €20 million.

During November 4, 5 and 6, 2008, officers of the European Commission, assisted by local officials, conducted an unannounced inspection at CEMEX offices in the United Kingdom and Germany. It is understood that Commission officials carried out unannounced inspections at the premises of other companies active in the cement and related products industry in several member states. The Commission alleges that CEMEX may have participated in anti competitive agreements and/or concerted practices in breach of Article 81 of the EC Treaty and/or Article 53 of the EEA Agreement and abusive conduct in breach of Article 82 of the EC Treaty and/or Article 54 of the EEA Agreement. The allegations extend to several markets worldwide, including in particular the European Economic Area; if those allegations are substantiated, significant penalties may be imposed on the subsidiaries of CEMEX operating in such markets. CEMEX fully co-operated and will continue to co-operate with the Commission officials in connection with the inspection.

After an extended consultation period, in April 2006, the cities of Kaštela and Solin in Croatia published their respective Master (physical) Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to Dalmacijacement, our subsidiary in Croatia, by the Government of Croatia in September 2005. During the consultation period, Dalmacijacement submitted comments and suggestions to the Master Plans, but these were not taken into account or incorporated into the Master Plan by Kaštela and Solin. Most of these comments and suggestions were intended to protect and preserve the rights of Dalmacijacement´s mining concession granted by the Government of Croatia in September 2005. Immediately after publication of the Master Plans, Dalmacijacement filed a series of lawsuits and legal actions before the local and federal courts to protect its acquired rights under the mining concessions. The legal actions taken and filed by Dalmacijacement were as follows: (i) on 17 May 2006, a constitutional appeal before the constitutional court in Zagreb, seeking a declaration by the court concerning Dalmacijacement's constitutional claim for decrease and obstruction of rights earned by investment, and seeking prohibition of implementation of the Master Plans, the appeal is currently under review by the court in Croatia, and it is expected that these proceedings will continue for several years before resolution; (ii) on 17 May 2006, a possessory action against the cities of Kaštela and Solin seeking the enactment of interim measures prohibiting implementation of the Master Plans and including a request to implead the Republic of Croatia into the proceeding on our side. The municipal court in Solin issued a first instance judgment dismissing our possessory action. We filed an appeal against that judgment. The appeal has been resolved by the Solin County Court, affirming the judgment and rendering it final.

The Municipal Court in Kaštela has issued a first instance judgment dismissing our possessory action. We filed an appeal against said judgment, which has since been resolved by the Kaštela Country Court, affirming the judgment and rendering it final; (iii) on 17 May 2006, an administrative proceeding before the State Lawyer, seeking a declaration from the Government of Croatia confirming that Dalmacijacement acquired rights under the mining concessions. Dalmacijacement received State Lawyer's opinion which confirms the Dalmacijacement's acquired rights according to the previous decisions ("old concession"). The Administrative Court in Croatia has ruled in favor of Dalmacijacement, validating the legality of the mining concession granted to Dalmacijacement by the Government of Croatia. This decision is final. Currently it is difficult for Dalmacijacement to ascertain the approximate economic impact of these measures by Kaštela and Solin.

Club of Environmental Protection, a Latvian environmental protection organization (hereinafter the " **Applicant**"), has initiated a court administrative proceeding against the decision made by the Environment State Bureau (hereinafter the " **Defendant**") in order to amend the environmental pollution permit (the "**Permit**") for the Broceni Cement Plant in Latvia, owned by CEMEX SIA (the " **Disputed Decision**"). CEMEX SIA was invited to participate in the court proceedings as a third party, whose rights and legal interest may be infringed by the relevant administrative act. On 5 June 2008 the Court rendered its judgment, where it satisfied the Claimant's claim and revoked the Disputed Decision stating that it is illegal because Defendant failed to perform public inquiry in accordance with legal regulations. The judgment has been appealed by both the Defendant and CEMEX SIA before the Court of Appeal and the court will hear the case in 24 February 2009. The appellate procedure will not suspend the operation of the Permit which will remain valid throughout the court proceedings, hence CEMEX SIA is allowed to continue to perform its activities. The Permit subject to this proceeding was issued for the existing cement line, which will be fully substituted in the first half of 2009 by a new cement line currently under construction.

SIGNATURES

THE COMPANY AND ORIGINAL BORROWER

CEMEX ESPAÑA, S.A.

By: HECTOR VELA, /s/ HECTOR VELA

Address: Calle Hernández de Tejada No. 1
Madrid 28027
Spain

Fax: +34 91 377 6500

Attention: Finance Department - Hector Vela

THE ORIGINAL GUARANTORS

Signed by HECTOR VELA as attorney for CEMEX AUSTRALIA HOLDINGS PTY LIMITED

/s/ HECTOR VELA

Address:

Fax:

CEMEX, INC.

By: HECTOR VELA

/s/ HECTOR VELA

Address:

Fax:

THE DOCUMENTATION AGENT

BANCO SANTANDER, S.A.

By: /s/ JAVIER VISEDO, /s/ CARLOS DE PEDROSO

JAVIER VISEDO / CARLOS DE PEDROSO

Address: CIUDAD GRUPO SANTANDER (ENCINAR DE PLANDA)

28660 MADRID

Fax: 91 2571376

THE ROYAL BANK OF SCOTLAND PLC

By: /s/ NICK W. M. WATKINS

NICK W. M. WATKINS

Address: 135 Bishopsgate, London, EC2M 3UR

Fax: +44 207 085 5143

Attention: Janin Campos

THE FACILITY AGENT

THE ROYAL BANK OF SCOTLAND PLC

By: /s/ NICK W. M. WATKINS

Address: 135 Bishopsgate, London, EC2M 3UR

Fax: +44 207 085 4564

Attention: Nick Watkins

THE LENDERS

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.

By: /s/ MIGUEL CASTILLO, /s/ [Illegible]

MIGUEL CASTILLO

BANCO ESPAÑOL DE CRÉDITO S.A.

By: SOSANA GONZALEZ MENENDEZ, [Illegible] GONZALEZ LINAZA

/s/ SOSANA GONZALEZ MENENDEZ, /s/ [Illegible] GONZALEZ LINAZA

BANCO SANTANDER, S.A.

By: JAVIER VISEDO / CARLOS DE PEDROSO

/s/ JAVIER VISEDO / /s/ CARLOS DE PEDROSO

BANK OF AMERICA, N.A.

By: /s/ [illegible]

[Illegible]

CAIXA D'ESTALVIS I PENSIONS DE BARCELONA

By: CARLOS MOZORTO / CARLOS DE PARIAS

/s/ CARLOS MOZORTO / /s/ CARLOS DE PARIAS

BANCO CAIXA GERAL, S.A.

By: PRIMITIVO CHAMORRO TEDADO / MANUEL [Illegible] VEGA

/s/ PRIMITIVO CHAMORRO TEDADO / /s/ MANUEL [Illegible] VEGA

CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID

By: /s/ [Illegible]

/s/ [Illegible]

HSBC BANK, PLC SUCURSAL EN ESPAÑA

By: MARK HALL

/s/ MARK HALL

LLOYDS TSB BANK PLC

By: /s/ PALOMA ADANEZ / /s/ JOSE MARIA CEMBORAIN

PALOMA ADANEZ / JOSE MARIA CEMBORAIN

THE ROYAL BANK OF SCOTLAND PLC

By: /s/ [Illegible]

/s/ [Illegible]

Exhibit 4.30

GABRIEL BENJAMIN DIAZ SOTO
NOTARY 131 IN AND FOR THE FEDERAL DISTRICT

BOOK NUMBER SIX HUNDRED AND FIFTY NINE.

FORTY-TWO THOUSAND FOUR HUNDRED AND NINETY-SEVEN.

MEXICO CITY, FEDERAL DISTRICT, being October fourteen of two thousand and eight.

GABRIEL BENJAMIN DIAZ SOTO, notary public number one hundred and thirty-one in and for the Federal District, do hereby certify as to the granting of the **SIMPLE LOAN AGREEMENT** entered into by and between **BANCO NACIONAL DE COMNERCIO EXTERIOR, SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO**, hereinafter referred to as the "Lender", represented herein by Messrs. Napoleon Vasquez Gomez and Jorge Arturo Tovar Castro, and by **CEMEX, SOCIEDAD ANONIMA BURSATIL DE CAPITAL VARIABLE**, hereinafter referred to as the "Borrower", represented herein by Messrs. Hector Medina Aguilar and Victor Romo Munoz, subject to the terms of the following recitals and clauses.

RECITALS:

A. THE BORROWER HEREBY DECLARES UNDER OATH:

I. That it has requested to Lender to enter into this simple loan agreement for up to the amount of TWO HUNDRED AND FIFTY MILLION DOLLARS, LAWFUL CURRENCY OF THE UNITED STATES OF AMERICA.

II. That its agent herein has the authority to enter into this agreement, which authority has not been amended, limited or revoked in any manner whatsoever.

III. That concurrently to the execution hereof, directly and indirectly, through its subsidiary CEMEX MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, they will create a pledge upon the shares of stock of CONTROL ADMINISTRATIVO MEXICANO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE and of CAMCEM SOCIEDAD ANONIMA DE CAPITAL VARIABLE, respectively, hereinafter the PLEDGE AGREEMENT, a sample of which is attached to the appendix hereof under the letter "A".

Furthermore, within a term not to exceed fifteen days as of the date of execution hereof, it shall create a sale and payment trust (hereinafter the TRUST AGREEMENT), to which it shall contribute free and clear CPOS (*ordinary participation certificates*) representing the amount of **THREE HUNDRED AND FIFTY MILLION DOLLARS, LAWFUL CURRENCY OF THE UNITED STATES OF AMERICA**, in other words, with a ratio of one point four to one, in respect to the total amount of the loan applied for at the time of execution hereof, provided that the Trust Agreement shall replace the Pledge Agreement and thus, the shares of stock subject matter of the Pledge Agreement released.

For the purposes hereof, the term "CPO's" shall men Non-Amortizable Ordinary Participation Certificates, which are referred to two Series "A" common shares of stock and one Series "B" common shares of stock representing the capital stock of Borrower and issued by Banco Nacional de Mexico, Sociedad Anonima, acting as Trustee of that certain trust number one one one zero three three dash nine.

IV. That in order to apply for the loan it has represented and warranted that it has not incurred in any event of bribery involving any government officer in the country where it does business and that such representation and warranty remains in full force and effect as of the date of execution hereof.

B. THE LENDER HEREBY DECLARES:

I. That it is willing to grant the credit facility requested by Borrower, subject to the terms and conditions hereinafter set forth.

CLAUSES:

MAKING OF THE LOAN:

FIRST.- Lender hereby grants Borrower and Borrower hereby accepts accordingly, a simple credit facility -hereinafter the " Loan"- for up to the amount of TWO HUNDRED AND FIFTY MILLION DOLLARS, LAWFUL CURRENCY OF THE UNITED STATES OF AMERICA, which is exclusive of interests, expenses and commissions of any kind which Borrower is required to pay to Lender.

USE OF FUNDS:

SECOND.- Borrower hereby covenants to use the funds of the Loan herein precisely for working capital and for general corporate needs.

TERM AND WITHDRAWALS:

THIRD.- Borrower may withdraw the Loan during the term of fifteen days following execution hereof by means of direct funding, by means of notice to the Lender with indication of its funding needs on the same date or with up to three business days prior notice, which notice shall be attached to the following materials:

a) Withdrawal application form and funding instructions.

CONDITIONS FOR WITHDRAWAL OF THE LOAN.

Borrower may not withdraw from the Loan if the following conditions are not met or otherwise satisfied:

1. That all paperwork relating to the withdrawal application of the Loan, as required by the Lender under the terms hereof, shall have been delivered.

2. That Borrower shall have paid all relevant commission under the terms of this Agreement.

Lender shall be entitled to reduce the term for withdrawal and the amount of the Loan and/or terminate this Agreement, all of the foregoing, as provided for in article two hundred and ninety-four of the General Law of Negotiable Documents and Credit Transactions, by means of written notice to Borrower to that end.

PAYMENT TERMS:

FOURTH.- The Loan shall be repaid by means of six quarterly and consecutive installments, the first of which shall be made on the ninth month from and after execution hereof. Consistent with the amortization schedule attached to the appendix of this instrument under the letter "B".

Borrower shall repay to the Lender the principal amount of the Loan, interest accruing thereon and expenses associated therewith, consistent with the following terms and conditions:

Borrower shall repay all installments of the Loan, without need of prior notice or demand, to the account number one zero nine three two eight five six, reference number one zero one three zero zero one one three one five two five, which Lender maintains at Citibank, N.A., at the branch office located at three hundred and ninety-nine Park Avenue, third floor, zip code ten thousand and forty-three, in New York, New York, United States of America, and the Borrower shall substantiate payment thereof on the date agreed upon to Lender's satisfaction. If payment date is due on a non-business day or otherwise a holiday, consistent with local banking practices, payment shall be due the next business day.

Lender may designate different payment instructions by means of five business-days prior written notice to the Borrower.

PREPAYMENTS:

The Borrower shall have the right, by giving three business-day prior written notice to the Lender (which notice shall indicate the amount of the prepayment), to make prepayments on the account of the Loan, without premium or penalty whatsoever, on the dates agreed upon for payment of principal or interest.

INTEREST:

FIFTH.- Borrower agrees to pay Lender ordinary interest accruing on each withdrawal, at an annual rate as follows: **THREE-MONTH LIBOR RATE PLUS FOUR AND ONE QUARTER BASE POINTS**.

For the purposes hereof, the term "LIBOR" (London Interbank Offered Rate) shall mean the three-month rate as published in the "USDRECAP" page of Reuters informative system or any other page or system which may replace the same, appearing one business day prior the date of withdrawal, and in the event the same is revised or adjusted, the rate appearing two business days prior to the date in which such review and adjustment is made. Such interest rates shall be rounded up to the nearest one thousandth percent point. For these purposes, five hundred thousandths percent points are deemed to be nearest to the next one thousandth percent point.

Interest shall be calculated by the actual number of calendar days on the basis of a three hundred and sixty days.

The Libor rate shall be revisable and adjusted accordingly on a quarterly basis, and payment shall be due and payable on a quarterly basis.

If the LIBOR rate should cease to exist for any reason, Borrower hereby agrees that subsequent withdrawals and outstanding installments shall be subject to the highest term interest rate issued by any of the bank members of the British Bankers Association, for US dollar inter-banking loans to other bank members, as published by Reuters, and in the absence of such informative system, as published by Bloomberg, and in the absence of any of the foregoing, as published by the British Bankers Association through its information system.

The referred interest rate and the excess thereof herein agreed upon shall be reviewed on a quarterly basis and adjusted accordingly.

For the above purposes, the parties hereto agree to be bound by the interest rate ensuing from any such revision and adjustment. Upon the failure of the parties hereto to reach an agreement, the Loan shall accelerate and become immediately due without the need of any notice or demand to the Borrower, and the last interest rate agreed upon by the parties shall be applicable to the outstanding balance.

OVERDUE PAYMENTS:

SIXTH.- If Borrower should fail to pay any payment obligation which is stated in Dollars when and as it becomes due, Borrower agrees to pay Lender late interest at a rate equal to twice the ordinary interest rate which has been agreed upon by the parties from time to time under the terms of this agreement and applicable to withdrawals originating the relevant obligation in respect to which payment is late. Such interest rate shall be reviewed and adjusted accordingly, on the same dates as ordinary interest rates are reviewed and adjusted.

FINANCE CHARGES:

SEVENTH.- Borrower shall pay to Lender the following commission fees:

1. A one-time payable commission fee equal to zero point five percent of the full amount of the Loan, upon execution hereof, plus relevant Value Added Tax, for opening the loan facility to Borrower.

2. All other customary banking fees and commissions, as designated by the source of proceeds, if any, to be paid on accrual basis.

AFFIRMATIVE AND NEGATIVE COVENANTS:

EIGHTH.- Borrower shall meet, satisfy or otherwise comply with the following covenants before the Lender:

a) If the Borrower ceases to be listed with the Mexican Stock Exchange Market or for any other reason the Lender is prevent from obtaining financial information relating to the Borrower which is disclosed by such Stock Exchange, then Borrower agrees to provide to the Lender the following information: (i) during the last week of the months of February, May, August and November of each year, interim financial statement (balance sheet and profit and loss statement), together with analytic descriptions of its main collective accounts, with information at the closing as of the months of December, March, June and September, respectively. Such financial statements shall be prepared consistent with the Mexican Information Financial Standards as published by the Mexican Board for Research and Development of Financial Information Standards and as certified by both, the in-house controller and the legal agent of Borrower; (ii) audited financial statements of Borrower as generated throughout the life of the Loan, including the full content of the auditor's opinion and notes to the same, with the first audited financial statement to be provided relating to the fiscal year in which the first withdrawal of the Loan was made. Such financial statements are to be supplied one hundred and eighty days following the closing of the relevant fiscal year and prepared consistent with the Mexican Information Financial Standards as published by the Mexican Board for Research and Development of Financial Information Standards.

b) Borrower shall not grant any securities upon real property for amounts exceeding FIVE PERCENT of the total consolidated assets of Borrower, for the benefit of third parties, in connection with loans intended to finance the working capital needs or general corporate needs of the Borrower.

c) Borrower shall provide the information requested by Lender [from time to time], to oversee compliance hereof, provided that, if Borrower ceases to be listed with the Mexican Stock Exchange Market the Borrower shall be required to provide Lender interim financial information of the Borrower in addition to its annual audited financial information.

COLLATERAL:

NINTH.- For the purposes of securing due compliance of each and all of the obligations of Borrower under the terms hereof, no later than fifteen days from and after execution hereof, the Borrower will form, on a separate document, a SALE AND PAYMENT TRUST whereby the Borrower will contribute such amount of CPO's as it may be necessary to equal the amount of THREE HUNDRED AND FIFTY MILLION DOLLARS, LAWFUL CURRENCY OF THE UNITED STATES OF AMERICA, to maintain a collateral ratio of one point four to one, in respect to outstanding balance of the Loan. Such Trust shall have the conditions which may be necessary for its operation and implementation.

If the value of CPO's contributed into the trust should fall below FIFTEEN PERCENT or more, the Borrower hereby agrees to contribute into the trust, additional CPO's to maintain at all times the above required coverage of one point four to one. The Borrower shall have five days to elect to create a deposit of money in the account designated to that end by the Lender, for an amount equal to such number CPO's as required to maintain the referred coverage of one point four to one.

Given the fact that the Trust is not created concurrently [with execution hereof] and until such time the Trust is formed, the Borrower hereby, to secure compliance of Borrower's obligations hereunder, creates a first order and priority pledge upon the entirety of the shares of stock it holds in CONTROL ADMINISTRATIVE MEXICANO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, and indirectly, through its subsidiary, CEMEX MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, upon the entirety of the shares of stock it holds in CAMCEM, SOCIEDAD ANONIMA DE CAPITAL VARIABLE. The pledge created herein shall remain effective for fifteen calendar days from and after execution hereof, provide that the Trust referred to in the preceding paragraph shall have been formed at Lender's satisfaction.

If the Trust cannot be formed for whatever reason, this Agreement shall terminate and foreclosure efforts as to the Pledge created herein shall commence.

GROUNDS FOR EARLY TERMINATION:

TENTH.- The term for repayment of the Loan shall accelerate without the need of any prior notice to the Borrower upon the occurrence of any of the following events:

a) The failure of Borrower to repay any of the installments on the account of the Loan as herein agreed upon, whether on account of principal, interest or commission fees. Upon the occurrence of the foregoing event, the entirety of the advances made by the Lender to the Borrower shall immediately mature without the need of any notice of any kind whatsoever.

b) If without the prior written approval of the Lender, the Borrower should use the Loan or any portion thereof, for purposes different from those herein authorized.

c) If the Borrower should fail to pay any taxes or fees payable to the Mexican Social Security Institute or to the National Housing Savings Fund, or upon the failure of the Borrower to file its tax returns as they become due or if the Borrower should fail to challenge and/or bond any tax assessments in accordance with the applicable law or the Borrower should fail to pay the same as they become final.

d) If the Borrower should abandon the administration of its business or if in the reasonable judgment of the Lender, Borrower fails to properly administer the same.

e) If at any time during the term herein, the work carried in the business of Borrower should be suspended for any reason whatsoever including in events of strike, lockout, shortages of raw materials, etc.

f) Upon the failure of the Borrower to comply with any other covenant or obligation herein or in any other agreement entered into with the Lender; if the execution of the foregoing agreement or the granting of the Loan should be deemed an event of default under any other agreement entered into by the Borrower with any other creditor of the [Mexican] financial system; if the Borrower should be in default of any other agreement entered into with any third party or if any of the companies of the [corporate] group of which it is a part of is in breach or default of any other of its obligations with the Lender provided that any such breach or default has the ability of producing the early termination of any financing agreement for an amount equal to FIFTY MILLION DOLLARS, LAWFUL CURRENCY OF THE UNITED STATES OF AMERICA.

g) If the trust agreement referred to in the ninth clause is not formed at Lender's satisfaction in the time frame provided for in such clause.

h) If Borrower or someone acting on its behalf, should incur in an act of bribery with a governmental officer in the country where Borrower sells its products, and upon the occurrence of any such action of bribery for which a final judgment has been rendered to that end finding the Borrower responsible for such actions, the Lender shall be entitled to refuse any further withdrawals from the Loan or to accelerate maturity of any outstanding sums thereof.

The above described grounds for termination are independent and in addition to any other grounds contemplated in the applicable law.

If Lender should proceed with early termination of this agreement and accelerated maturity of the Loan, the Borrower shall not be eligible to seek any further or additional funding from the Lender.

EXPENSES:

ELEVENTH.- The Borrower shall pay any and all expenses associated with this agreement. For the purposes hereof, expenses associated to this agreement will include any disbursements deriving from the execution and/or notarization hereof or those of any other nature required by law for foreclosure or termination of the obligations ensuing hereunder.

If the Borrower should fail to satisfy the obligation of the preceding paragraph, the Borrower hereby authorizes Lender to disburse the amount of required expenses and any notary's fees hereunder, and the Borrower agrees to reimburse the same no later than three business days after Lender's demand together with document support of the disbursement made, provided, whoever, that the Borrower shall pay interest upon such expenses made by Lender, at a rate of FIFTY PERCENT per annum.

The Lender will provide to Borrower, proof of the disbursements made and referred to in the above paragraph.

FORECLOSURE:

TWELFTH.- The Lender shall be entitled to seek payment of any outstanding balance payable by the Borrower, by foreclosing on the Borrower and filing for summary or ordinary trial proceedings [against Borrower], provided, however, that the Lender shall be entitled to designate specific assets [of the Borrower] to foreclose upon the same and thus, the Lender shall not be required to follow the foreclosure priority set forth in article three hundred and ninety-five of the Commerce Code in force, and provided further that the custodian appointed to that effect by the Lender shall be entitled to enter in possession thereof without the need of posting a bond.

It is further agreed that exercise by Lender of any of the above referred rights and remedies does not prevent the Lender from exercising any other recourse or remedy, and that any and all actions which might be available to the Lender shall not be deemed forfeited as a result of one or more recourses filed [by the Lender] against the Buyer, all of which shall remain available until the Borrower has paid in full the amount of the Loan and any other associated expenses.

JURISDICTION AND GOVERNING LAW:

THIRTEENTH.- For all matters pertaining to the interpretation, foreclosure and compliance hereof, the parties hereby submit to the applicable laws in force in the Federal District and to the jurisdiction of the competent courts sitting in Mexico City, Federal District, and thus, hereby waive any other venue or forum which might be available to them by virtue of their present or future domiciles or otherwise.

DOMICILES:

FOURTEENTH.- The parties hereby designate the following as their addresses for the purposes of hearing and receiving notices relating to this agreement:

Of the Lender: Periferico Sur number four thousand three hundred and three, Colonia Jardines en la Montaña, zip code fourteen thousand two hundred and ten, in Mexico City, Federal District.

Of the Borrower: Avenida Constitucion number four hundred and forty-four Poniente, Monterrey, Nuevo Leon, zip code sixty-four thousand.

As long as the Borrower does not provide written notice to the Lender of any change to its above appointed address, all notices, service of process, demands and other court and non-court communications shall be made in the above stated domicile.

NEW CONDITIONS BY THE FUNDING SOURCE:

FIFTEENTH.- The terms and conditions of the foregoing agreement shall be amended by the parties if any such change ensues from new conditions imposed by the funding source of this agreement or the Loan. Such requirement shall be construed as an objective fact which will bind the parties to the new terms and conditions as required by the funding source of the Loan.

TAXES:

SIXTEENTH.- Any and all payments which the Borrower is required to tender to the Lender shall be made without any withholding or offset whatsoever. Whenever the Borrower is required by statute to make any withholding to the sums payable to the Lender, the Borrower agrees to pay all additional amounts which may be required to be withheld so that the Lender may receive the full amount of the payments as if any such withholding had never taken place.

The interest rate agreed upon under the terms of the Fifth clause above shall be determined bearing in mind that the Lender is required to pay the Income Tax which its foreign financing sources are required to pay in Mexico and accruing on the interest paid by the Lender. Therefore, the Borrower agrees to pay to the Lender any amounts ensuing from any increases to such tax, as effective on interest payment date, except to the extent such situation is contemplated as a variable or floating rate in the document setting forth the interest rates or the basis for calculating the same.

CONSENT TO DISCLOSE INFORMATION:

SEVENTEENTH.- The Borrower hereby authorizes the Lender to disclose the information relating to the transactions contained herein to the extent such information is required to the Lender by its funding sources for funding purposes.

I, the undersigned notary public do hereby certify:

I. That I have warranted and identified myself before the persons appearing herein as a notary public, and that I believe such persons have the capacity required by applicable law to enter into and grant this agreement, and that I have satisfied myself as to the identities of the same, pursuant to the description attached to the appendix hereto under the letter “C”.

II. That the agents acting on behalf of BANCO NACIONAL DE COMERCIO EXTERIOR, SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO and CEMEX, SOCIEDAD ANONIMA BURSATIL DE CAPITAL VARIABLE, did provide to the undersigned evidence relating to the authority they have to act on the name and stead of their relevant constituents, as per the documents attached to the appendix hereto under the letters “D” and “E”, and that they further warranted that such authority has not been revoked, amended nor have they expired and that their relevant constituents have the authority required by applicable law to enter into and grant the loan agreement contained herein.

III. That the persons appearing before the undersigned did declare:

LEONEL NAPOLEON VASQUEZ GOMEZ, a Mexican citizen, born in the city of Monterrey, State of Nuevo Leon, where he was born on December the third, nineteen sixty-one, married, having his domicile in Avenida Fundidora five hundred and one, at the Cintermex building, second floor, Colonia Obrera, in Monterrey, State of Nuevo Leon, a banking executive.

JORGE ARTURO TOVAR CASTRO, a Mexican citizen, citizen, born in the city of Monterrey, State of Nuevo Leon, where he was born on August the twenty-third, nineteen fifty-one, married, having his domicile in Avenida Fundidora five hundred and one, at the Cintermex building, second floor, Colonia Obrera, in Monterrey, State of Nuevo Leon, a banking executive.

HECTOR MEDINA AGUIAR, a Mexican citizen, native of Tepic, State of Nayarit, where he was born on December twenty-seven, nineteen fifty, married, having his domicile at Avenida Ricardo Margain Zozaya three hundred and twenty-five, Colonia Valle del Campestre, in the city of San Pedro Garza Garcia, Nuevo Leon, a chemist engineer administrator.

VICTOR ROMO MUÑOZ, a Mexican citizen, native of Aguascalientes, State of Aguascalientes, where he was born on January the tenth, nineteen fifty-eight, married, having his domicile at Avenida Ricardo Margain Zozaya three hundred and twenty-five, Colonia Valle del Campestre, in the city of San Pedro Garza Garcia, Nuevo Leon, a certified public accountant.

IV. That the Borrower did receive the funds of the loan consistent with the terms of the agreement herein contained.

V. That the persons appearing before the undersigned have warranted that the statements and representations made by them herein, were made under oath and that I did advise them of the penalties applicable to those who make false statements.

VI. That I had before me the documents referred to herein.

VII. “F-3”. That having read this document aloud to the persons appearing before me, and having explained the scope and legal implications of the same, and after making them aware of the fact that they are entitled to reach this instrument personally, they did indicated they fully understood the same and agreed with the terms stated herein, and executed the same being October fourteen two thousand and eight; which I hereby authorize. I HEREBY ATTEST.

The signatures of Leonel Napoleon Vasquez Gomez, Jorge Arturo Tovar Castro, Hector Medina Aguiar and Victor Romo Muñoz. Gabriel Benjamin Diaz Soto. A signature. The seal of the notary.

THIS IS THE FOURTH CHARTER ISSUED FOR THE USE OF THE LENDER, BANCO NACIONAL DE COMERCIO EXTERIOR, SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO, IN ELEVEN PAGES.

MEXICO CITY, FEDERAL DISTRICT, BEING OCTOBER THE TWENTY-THIRD, TWO THOUSAND AND EIGHT. I HEREBY ATTEST.

EXHIBIT 4.31

COMMITTED USD 200,000,000

UNCOMMITTED USD 100,000,000

SECURED BRIDGE FACILITY AGREEMENT

dated 20 MARCH 2009

for
CEMEX ESPAÑA, S.A.
as Borrower

with

BANCO SANTANDER, S.A.
and
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.

acting as Lenders

with

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.
acting as Facility Agent

SECURED BRIDGE FACILITY AGREEMENT

TABLE OF CONTENTS

This Agreement is made in Madrid, on 20 March 2009, between the following parties.

THE PARTIES

Of the one part,

CEMEX ESPAÑA, S.A. (hereinafter, "**Cemex España**"), a Spanish nationality company, with registered office in Hernández de Tejada 1, 28027, Madrid (Spain), with Tax Identification Number A-46004214 and registered with the Commercial Registry of Madrid, in volume 9.743 and 9.744, sheet 1 y 166, section 8, page no. M-156542. The company is represented herein by **Mr. Juan Pelegrí y Girón**, with Identity Card Number 1.489.996-X, with his address for the purposes hereof at Hernández de Tejada 1, 28027, Madrid (Spain), by virtue of the power of attorney conferred in a deed executed on 18 March 2009 in the presence of the Notary of Madrid, Mr. Rafael Monjo Carrió with number 883 of his official records.

Hereinafter, Cemex España will be referred to as the "**Borrower**".

And of the other part,

BANCO SANTANDER, S.A., an institution incorporated pursuant to the laws of Spain, and with registered office at Paseo Pereda 9-12, 39004 Santander, Spain, and with Tax Identity Code A-39000013 (hereinafter, "**Santander**"). It is represented by **Mr. José Manuel Colomes Montañés**, with Identity Card Number 28.356.195-R by virtue of the deed of power of attorney conferred to him on 31 March 1999 in the presence of the Notary of Madrid, Mr. Francisco Mata Pallarés, with number 493 of his official records, and **Mr. Juan de la Hera Salvador**, with Identity Card Number 44.213.757-Y by virtue of the deed of power of attorney conferred to him on 16 October 2007 in the presence of the Notary of Burgos, Mr. José María de Prada Díez, with number 2.556 of his official records.

BANCO BILBAO VIZCAYA ARGENTARIA, S.A., an institution incorporated pursuant to the laws of Spain, and with registered office at Plaza de San Nicolás 4, 48005 Bilbao, Spain, and with Tax Identity Code A-48265169 (hereinafter, "**BBVA**"). It is represented by **Mr. José García Casteleiro**, with Identity Card Number 32.816.324-Q by virtue of the deed of power of attorney conferred to him on 8 September 2003 in the presence of the Notary of Bilbao, Mr. José María Arriola Arana, with number 1.503 of his official records, and **Mr. José María de Miguel Jiménez,** with Identity Card Number 7.241.035-Z by virtue of the deed of power of attorney conferred to him on 27 February 2001 in the presence of the Notary of Bilbao Mr. José Ignacio Uranga Otaegui, with number 836 of his official records.

Hereinafter, Santander and BBVA and any future assignees thereof by virtue of Clause 21 hereof, will be jointly referred to as the " **Lenders**" and each of them, as the or a "**Lender**". Additionally, BBVA or any other entity acting as Agent from time to time, in accordance with Clause 23 hereof will be designated as the "**Facility Agent**".

RECITALS

I. Cemex España has requested from the Lenders a bridge facility for a maximum amount of US$ 200,000,000 committed, and of up to US$ 100,000,000 uncommitted, and the Lenders have agreed to grant it to Cemex España.

II. Now, therefore, the parties, after assuring that the powers by virtue of which they intervene herein are in full force, agree to subscribe the present **FACILITY AGREEMENT** (hereinafter, the "**Facility Agreement**" or the "**Agreement**"), which shall be governed by the following

CLAUSES

SECTION 1
INTERPRETATION

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

In this Agreement:

"**Availability Period**" means the period from and including the Effective Date to and including the date falling ten Business Days prior to the Termination Date.

"**Available Bridge Facility**" means the aggregate for the time being of each Lender's Available Commitment.

"**Available Commitment**" means a Lender's Commitment minus:

(a) the amount of its participation in any outstanding Utilisations; and

(b) in relation to any proposed Drawdown, the amount of its participation in any Utilisations that are due to be made on or before the proposed Drawdown Date.

"**Break Costs**" means the amount (if any) by which:

(a) the interest (excluding the applicable Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Utilisation or Unpaid Sum to the last day of the current Interest Period in respect of that Utilisation or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

(b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the day of receipt or recovery if a Business Day and if received or recovered before 2 p.m. London time on that day (or, if not, on the Business Day following receipt or recovery) and ending on the last day of the current Interest Period.

"**Bridge Facility**" means the term loan bridge facility made available under this Agreement as described in Clause 2 (*The Bridge Facility*).

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Madrid and New York.

"**Capital Lease**" means any lease that is capitalised on the balance sheet of the Borrower prepared in accordance with Spanish GAAP.

"**Cemex Group**" means Cemex Parent and each of its Subsidiaries from time to time.

"**Cemex Parent**" means Cemex, S.A.B. de C.V., a company (*sociedad anónima bursátil de capital variable*) incorporated in Mexico.

"**Charged Property**" means the assets of the Borrower which from time to time are, or are expressed to be, the subject of the Transaction Security.

"Commitment" means:

(a) in relation to a Lender, the amount set opposite its name under Clause 2 and the amount of any other Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender (not included in Clause 2), the amount of any Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Confidentiality Undertaking**" means a confidentiality undertaking substantially in the form set out in Schedule 4 (*Form of Confidentiality Undertaking*) or in any other form agreed between the Borrower and the Facility Agent.

"**Default**" means an Event of Default or any event or circumstance specified in Clause 20 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"**Discharged Rights and Obligations**" has the meaning given to such term in Clause 21.5 (*Procedure for transfer*).

"**Domestic Lender**" means any Spanish resident credit entity registered in the Special Registries of The Bank of Spain (*Banco de España*) as defined in article 8 of Royal Legislative Decree 4/2004 of 5 March and mentioned in paragraph (c) of Article 59 of Corporate Income Tax Regulations approved by Royal Decree 1777/2004 of 30 July (Real Decreto 1777/2004 de 30 de julio) or a permanent establishment of a non-Spanish resident financial entity as defined in article 13.1.a of Royal Legislative Decree 5/2004 of 5 March and mentioned in the second paragraph of Article 8.1 of Non-Resident Income Tax Regulations approved by Royal Decree 1776/2004 of 30 July (Real Decreto 1776/2004 de 30 julio).

"**Drawdown**" means a drawdown of the Bridge Facility.

"**Drawdown Date**" means the date of a Drawdown, being the date on which the relevant Utilisation is to be made.

"**Drawdown Request**" means a notice substantially in the form set out in Schedule 2 (*Requests*).

"**Effective Date**" means the date on which the Facility Agent notifies the Borrower that it has received all of the documents and the evidence listed in Part I of Schedule 1 (*Conditions Precedent to Initial Drawdown*) in accordance with Clause 4.1(a) (*Initial Conditions Precedent*) at the satisfaction of the Lenders.

"**Event of Default**" means any event or circumstance specified as such in Clause 20 (*Events of Default*).

"**Fee Letter**" means any letter or letters dated on or about the date of this Agreement between the Lenders and the Borrower (or the Facility Agent and the Borrower) setting out the level of fees payable in respect of the Bridge Facility.

"**Finance Document**" means this Agreement, each Fee Letter, any Selection Notice, any mandate letter between the Facility Agent and the Borrower, the Security Documents and any other document designated in writing as a " **Finance Document**" by the Facility Agent and the Borrower.

"**Finance Party**" means the Facility Agent or a Lender.

"**Financial Indebtedness**" means any indebtedness for or in respect of, and without double counting:

(c) moneys borrowed (including, but not limited to, any amount raised by acceptance under any acceptance credit facility and receivables sold or discounted on a recourse basis (it being understood that Permitted Securitisations shall be deemed not to be on a recourse basis and shall not constitute Financial Indebtedness));

(d) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(e) the amount of any liability in respect of any lease or hire purchase contract that would, in accordance with Spanish GAAP, be treated as a Capital Lease;

(f) the deferred purchase price of assets or the deferred payment of services, except trade accounts payable in the ordinary course of business;

(g) obligations of a person under repurchase agreements for the stock issued by such person or another person;

(h) obligations of a person with respect to product invoices incurred in connection with exporting financing;

(i) all Financial Indebtedness of others secured by Security on any asset of a person, regardless of whether such Financial Indebtedness is assumed by such person in an amount equal to the lower of (i) the net book value of such asset and (ii) the amount secured thereby; and

(j) the amount of any potential liability in respect of guarantees of Financial Indebtedness referred to in paragraphs (a) to (g) above.

"**First Drawdown Date**" means the date on which the first Drawdown is made under this Agreement.

"**G12 Lenders**" means BBVA, Santander, The Royal Bank of Scotland, Citibank, HSBC, Barclays Bank, ANZ, ING, BNP Paribas, JP Morgan, Bank of America and Calyon.

"**GAAP**" means, in relation to the Borrower, the generally accepted accounting principles applying to it in Spain which may include International Accounting Standards.

"**Group**" means Cemex España and its Subsidiaries.

"**Interest Period**" means, in relation to a Utilisation, each period determined in accordance with Clause 9 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (*Default interest*).

"**International Accounting Standards** " means the accounting standards approved by the International Accounting Standards Board from time to time.

"**Lender**" means:

(k) any Lender; and

(l) any bank, financial institution, trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets which, in each case, has become a Party in accordance with Clause 21 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement. For the avoidance of doubt, any reference to " **the Lenders**" in this Agreement shall be understood to be to " **all Lenders**".

"**LIBOR**" means, in relation to any Utilisation:

(m) the applicable Screen Rate; or

(n) (if no Screen Rate is available for US Dollars or the Interest Period of that Utilisation) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request quoted by the Reference Banks to leading banks in the London interbank market,

on or about 11:00 am London time on the Quotation Day for the offering of deposits in US Dollars and for a period comparable to the Interest Period for that Utilisation.

"**Majority Lenders**" means a Lender or Lenders whose undrawn Commitments and participations in the Utilisations then outstanding aggregate more than 50 per cent of all the undrawn Commitments and Utilisations then outstanding.

"**Margin**" means 2.50 per cent per annum.

"**Material Adverse Effect**" means a material adverse effect on:

(o) the business, condition (financial or otherwise) or operations of the Group, taken as a whole;

(p) the rights or remedies of any Finance Party under the Finance Documents; or

(q) the ability of the Borrower to perform its payment obligations under the Finance Documents.

"**Material Subsidiary**" means any Subsidiary of the Borrower which at any time:

(r) has total assets representing 5 per cent or more of the total consolidated assets of the Group; and/or

(s) has revenues representing 5 per cent or more of the consolidated turnover of the Group,

in each case calculated on a consolidated basis.

The Material Subsidiaries as at 30 September 2008 are set out in Schedule 6 (*Material Subsidiaries*) (and compliance with the conditions set out in paragraphs (a) and (b) shall be determined by reference to such Schedule 6 (*Material Subsidiaries*)).

A report by the auditors of the Borrower (or, as the case may be, any other internationally recognised accounting firm that is approved by the Facility Agent) that a Subsidiary is a Material Subsidiary shall, in the absence of manifest error, be conclusive and binding on all Parties.

"**Month**" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

(t) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;

(u) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and

(v) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period. " **Monthly**" shall be construed accordingly.

"**New Lender**" means a New Lender as specified in a Transfer Certificate.

"**NOF**" has the meaning ascribed to such term in Part II of Schedule 1 (*Conditions Precedent Required to be delivered for subsequent Drawdowns)*.

"**Original Financial Statements**" means in relation to the Borrower, its audited unconsolidated and consolidated financial statements for its financial year ended 31 December 2007.

"**Party**" means a party to this Agreement.

"**Permitted Securitisation**" means a sale, transfer or other securitisation of receivables and related assets by the Borrower or its Subsidiaries, including a sale at a discount, **provided that** (i) such receivables have been transferred, directly or indirectly, by the originator thereof to a person in a manner that satisfies the requirements for an absolute conveyance under the laws and regulations of the jurisdiction in which such originator is organised and (ii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or other securitisation is carried out on a non-recourse basis or on a basis where recovery is limited solely to the collection of the relevant receivables.

"**Property Registries**" means the land registries or *Registros de la Propiedad*.

"**Qualified Majority Lenders**" means a Lender or Lenders whose undrawn Commitments and participations in the Utilisations then outstanding aggregate more than seventy five per cent (75%) of all the undrawn Commitments and Utilisations then outstanding.

"**Qualifying Lender**" has the meaning given to that term in Clause 12 (*Tax Gross-up and Indemnities*).

"**Quotation Day**" means, in relation to any period for which an interest rate is to be determined two Business Days before the first day of that period unless market practice differs in the Relevant Interbank Market, in which case the Quotation Day for that currency will be determined by the Facility Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days).

"**Real Property**" means each of the immovable properties mortgaged under the Transaction Security as described therein.

"**Reference Banks**" means the principal London offices of Citibank International plc, Lloyds Bank TSB plc and Royal Bank Scotland plc and such other banks as may be appointed by the Facility Agent in consultation with the Borrower.

"**Relevant Interbank Market**" means the London interbank market.

"**Relevant Jurisdiction**" means in relation to the Borrower:

(w) its jurisdiction of incorporation; and

(x) any jurisdiction where it conducts its business.

"**Repayment Date**" means 30 June 2009.

"**Repeating Representations**" means each of the representations set out in Clauses 17.1 (*Status*) to Clause 17.6 (*Governing law and enforcement*), Clause 17.9 (*No Default*), Clause 17.11 (*Pari passu ranking*), Clause 17.12 (*No proceedings pending or threatened*), Clause 17.13 (*No winding-up*), and Clauses 17.20 (*Ranking*) to 17.23 (*Legal and Beneficial Owner*) and Clause 17.24 (*Centre of main interests and establishments*).

"**Screen Rate**" means the lending rate that appears in the LIBOR page of the KLIEMM screen (or any other page that may replace the same in the future) for deposits of the same duration as the relevant Interest Period (or, in the absence thereof, a linear interpolation will be made of the two rates for the immediately preceding and subsequent terms for which a quotation exists), at eleven a.m. (11:00 a.m.) of the second TARGET business day before the one on which the relevant period of time must start. If the agreed page is replaced or the service ceases to be available, the Facility Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower and the Lenders.

"**Secured Obligations**" means all obligations at any time due, owing or incurred by the Borrower to any Secured Party under the Finance Documents, whether present or future, actual or contingent (and whether incurred solely or jointly and whether as principal or surety or in some other capacity).

"**Secured Parties**" means the Facility Agent and each Lender from time to time party to this Agreement.

"**Security**" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Security Documents**" means each mortgage over a Real Property entered or to be entered into by the Borrower in favour of the Secured Parties together with any other document entered into by the Borrower creating or expressed to create any Security over all or any part of its assets in respect of the obligations of the Borrower under any of the Finance Documents.

"**Selection Notice**" means a notice substantially in the form set out in Schedule 2 (*Requests*) given in accordance with Clause 9 (*Interest Periods*).

"**Stake**" means a number of shares in any Group member held by another Group member the disposal of which would cause the first Group member to cease to be a Subsidiary of the second Group member.

"**Subsidiary**" means in relation to any company or corporation, a company or corporation:

(y) which is controlled, directly or indirectly, by the first mentioned company or corporation;

(z) more than half the issued share capital of which is beneficially owned, directly or indirectly (by one or more companies or corporations) by the first mentioned company or corporation; or

(aa) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able (directly or indirectly) to direct its affairs and/or to control the composition of its board of directors or equivalent body.

"**Tax**" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Termination Date**" means 30 June 2009.

"**Total Commitments**" means the aggregate of the Commitments being US$ 200,000,000 at the date of this Agreement, subject to any increase according to Clause 2.3 (*Uncommitted Amount*).

"**Transaction Security**" means the Security created or expressed to be created in favour of the Secured Parties pursuant to the Security Documents.

"**Transfer Certificate**" means a certificate substantially in the form set out in Schedule 3 (*Form of Transfer Certificate*) or any other form agreed between the Facility Agent and the Borrower.

"**Transfer Date**" means, in relation to a transfer, the later of:

(bb) the proposed Transfer Date specified in the Transfer Certificate; and

(cc) the date on which the Facility Agent executes the Transfer Certificate.

"**Unpaid Sum**" means any sum due and payable but unpaid by the Borrower under the Finance Documents.

"**U.S. Lender**" means (i) any bank or other financial institution that is organised under the laws of the United States (but does not include any branch of a bank organised under the laws of the United States where such branch is located outside the United States) or (ii) any agency or branch of a foreign bank located within the United States. A financial institution that is not a bank and is controlled, directly or indirectly, by a person or entity located in or organised under the laws of the United States will be deemed to be a U.S. Lender, unless that financial institution is organised under the laws of a jurisdiction outside the United States and has its principal office (and any different office directly administering any loans or participations therein) outside the United States. Any proposed Lender or participant that is not a bank will be deemed to be a financial institution for purposes of this definition.

"**US Private Placement**" means:

(a) (i) US$ 103,000,000, 4.77% Senior Notes, Series 2003, Tranche 1, due 2010;

(ii) US$ 96,000,000, 5.36% Senior Notes, Series 2003, Tranche 2, due 2013;

(iii) US$ 201,000,000, 5.51% Senior Notes, Series 2003, Tranche 3, due 2015, issued by Cemex España Finance LLC pursuant to a note purchase agreement dated 23 June 2003, as amended on 1 September 2006;

(b) (i) ¥ 4,980,600,000, 1.79% Senior Notes, Series 2004, Tranche 1, due 2010;

(ii) ¥ 6,087,400,000, 1.99% Senior Notes, Series 2004, Tranche 2, due 2015,

issued by Cemex España Finance LLC pursuant to a note purchase agreement dated 15 April 2004, as amended on 1 September 2006; and

(c) (i) US$ 133,000,000, 5.18% Senior Notes, Series A, due 2010;

(ii) US$ 192,000,000, 5.62% Senior Notes, Series B, due 2015,

issued by Cemex España Finance LLC pursuant to a note purchase agreement dated 13 June 2005, as amended on 1 September 2006.

"**Utilisation**" means a utilisation made or to be made under the Bridge Facility or the principal amount outstanding for the time being of that utilisation.

"**VAT**" means value added tax as provided for in the Sixth Council Directive of 17 May 1977 on the harmonization of the laws of the member states of the European Union relating to turnover taxes - Common system of value added tax: uniform basis of assessment (77/388/EEC) and the relevant implementing legislation in member states of the European Union and any other Tax of a similar nature.

1.2 **Construction**

(a) Unless a contrary indication appears a reference in this Agreement to:

(i) the "**Borrower**", the "**Facility Agent**", any "**Finance Party**", any "**Lender**", any "**Party**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

(ii) a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated (in each case, however fundamentally);

(iii) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

(iv) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, with which persons who are subject thereto are accustomed to comply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

(v) the "**winding-up**", "**dissolution**", "**administration**" or "**reorganisation**" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings (such as, in Spain, *concurso*, *liquidación forzosa*, *intervención* or *nombramiento de un administrator judicial*) under the laws and

regulations of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, bankruptcy, dissolution or administration;

(vi) a provision of law is a reference to that provision as amended or re-enacted without material modification; and

(vii) a reference to a clause, paragraph or schedule, unless the context otherwise requires, is a reference to a clause of, a paragraph of or a schedule to this Agreement.

(b) Section, Clause and Schedule headings are for ease of reference only.

(c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

(d) A Default (including an Event of Default) is "**continuing**" if it has not been remedied or waived.

1.3 **Currency Symbols and Definitions**

"**euro**" means the single currency unit of the participating Member States and " **US$**", "**$**" **and** "**US Dollars**" denote lawful currency of the United States of America.

SECTION 2
THE BRIDGE FACILITY

2. THE BRIDGE FACILITY

2.1 The Bridge Facility

Subject to the terms of this Agreement, the Lenders make available to the Borrower a US Dollar term loan bridge facility in an aggregate amount equal to the Total Commitments.

2.2 Lenders' Commitments

On the date hereof, the Commitments of each Original Lender are as follows:

Original Lender	Initial Facility Amount
Banco Santander	US$ 100,000,000
BBVA	US$ 100,000,000
TOTAL	US$ 200,000,000

2.3 Uncommitted amount

The Borrower may request the Lenders an amount of US$100,000,000 (the " **Additional Amount**") in addition to the Total Commitments. Such Additional Amount may be granted at the discretion of the Lenders, in which case:

(a) the terms and conditions set out under this Agreement shall be applicable to the Additional Amount;

(b) the Definitions and Interpretation set out under Clause 1 above shall apply *mutatis mutandis* to the Additional Amount;

(c) the participation of each of the Lenders in the Additional Amount shall be pro rata to their participation in the Total Commitments;

(d) any applicable conditions precedent, if any, to the drawdown of the Additional Amount shall be agreed upon by the Lenders when granted; and

(e) the maximum amount secured under the Transaction Security shall be proportionally increased. This increase of the maximum amount shall have the same ranking as the current one of the Transaction Security.

2.4 Finance Parties' rights and obligations

(a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

(b) Except as otherwise stated in the Finance Documents, the rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from the Borrower shall be a separate and independent debt.

(c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

3. PURPOSE

3.1 Purpose

The Borrower shall apply all amounts borrowed by it under the Bridge Facility in or towards its general corporate purposes.

3.2 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. CONDITIONS OF DRAWDOWN

4.1 Initial Conditions Precedent

(a) The Borrower may not deliver a Drawdown Request for Drawdowns up to an amount of US$ 100,000,000 in aggregate, unless the Facility Agent has received all of the documents and other evidence listed in Part I of Schedule 1 (*Conditions Precedent to Initial Drawdown*) in form and substance satisfactory to the Lenders. The Facility Agent shall promptly notify the Borrower that the Lenders are so satisfied.

(b) The Borrower may not deliver a Drawdown Request for any subsequent Drawdown to be made once an amount of US$ 100,000,000 referred to in paragraph (a) above has already been drawn down, unless the Facility Agent has received all of the documents and other evidence listed in Part II of Schedule 1 (*Conditions Precedent Required to be delivered for subsequent Drawdowns)* in form and substance satisfactory to the Lenders. The Facility Agent shall promptly notify the Borrower that the Lenders are so satisfied.

4.2 Further Conditions Precedent

The Lenders will only be obliged to comply with Clause 5.6 (*Lenders' participation*) if on the date of the Drawdown Request and on the proposed Drawdown Date:

(a) no Event of Default is continuing or would result from the proposed Drawdown; and

(b) the Repeating Representations which are or which are deemed to be made or repeated by the Borrower on such date pursuant to Clause 17.25 (*Times on which representations are made*) are true in all material respects.

4.3 Maximum number of Utilisations

The Borrower may not deliver a Drawdown Request if as a result of the proposed Drawdown six or more Utilisations would be outstanding.

SECTION 3
DRAWDOWN

5. DRAWDOWN

5.1 Delivery of a Drawdown Request

The Borrower may utilise the Bridge Facility by delivery to the Facility Agent of a duly completed Drawdown Request not later than eleven a.m. (11:00) of the third business day prior to the date on which such Drawdown must be made effective, and subject to completion with the terms and conditions set out in Clause 4 above and in this Clause.

5.2 Initial Drawdown

The Borrower makes the first Drawdown on the date hereof for an amount of US$ 100,000,000 by delivering to the Facility Agent a duly completed Drawdown Request. The Lenders hereby acknowledge that the conditions precedent set out under Clauses 4.1(a), 4.2 and 4.3 above have been met.

Payment of the first Drawdown shall be made by the Facility Agent on or before twelve a.m. (12:00) of 23 March 2009, with value date such date, by means of crediting such amount to the bank account indicated for such purpose by the Borrower in the Drawdown Request.

Payment of the first Drawdown by the Facility Agent to the Borrower, as indicated in the previous paragraph will fully release the Lenders from their obligation to make payment of such first Drawdown.

5.3 Subsequent Drawdowns

Once Utilisations amounting in aggregate US$ 100,000,000 of the Bridge Facility have been made, in order to make Drawdowns of a further amount of up to US$ 100,000,000 of the Bridge Facility, the Borrower shall deliver to the Facility Agent one or more duly completed Drawdown Requests not later than eleven a.m. (11:00) of the third Business Day prior to the date on which the relevant Drawdown must be made effective, and subject to completion with the conditions precedent set out under Clauses 4.1(b), 4.2 and 4.3 above.

5.4 Completion of a Drawdown Request

Each Drawdown Request is irrevocable and will not be regarded as having been duly completed unless:

(a) the proposed Drawdown Date is a Business Day within the Availability Period applicable to the Bridge Facility;

(b) the amount of the Utilisation complies with Clause 5.5 (*Amount*); and

(c) the proposed Interest Period complies with Clause 9 (*Interest Periods*).

5.5 Amount

The amount of any Drawdown referred to in Clause 5.3 above shall not be more than US$ 100,000,000 or, if less, the Available Bridge Facility.

5.6 Lenders' participation

(a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Utilisation available by the Drawdown Date.

(b) The amount of each Lender's participation in each Utilisation will be equal to the proportion borne by its Available Commitment to the Available Bridge Facility immediately prior to making the Utilisation.

5.7 **Cancellation of Commitment**

The Total Commitments shall be immediately cancelled at the end of the Availability Period.

SECTION 4
REPAYMENT, PREPAYMENT AND CANCELLATION

6. REPAYMENT

6.1 Repayment of Utilisations

The outstanding amounts of the Utilisations will be repaid by the Borrower through one single payment on the Termination Date.

6.2 Reborrowing

The Borrower may not reborrow any part of the Bridge Facility which is repaid.

6.3 Effect of cancellation and prepayment

If any of the Utilisations are prepaid in accordance with Clause 7.3 (*Voluntary prepayment of Utilisations*) then the amount of the outstanding Utilisations and as between such Utilisations, shall be applied at the option of the Borrower.

7. PREPAYMENT AND CANCELLATION

7.1 Illegality of a Lender

If, at any time, it is or will become unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Utilisation:

(a) that Lender shall promptly notify the Facility Agent upon becoming aware of that event (specifying the reason for such unlawfulness and the date on which such unlawfulness occurred or will occur, being no earlier than the last day of any applicable grace period permitted by law (the "**Relevant Date**")) and, in any event, at a time which permits the Borrower to repay that Lender's participation on the date such repayment is required to be made;

(b) upon the Facility Agent notifying the Borrower, the Commitment of that Lender will be immediately cancelled; and

(c) the Borrower shall, on the last day of the Interest Period for each Utilisation ending immediately prior to the Relevant Date and occurring after the Facility Agent has notified the Borrower or, if earlier, the Relevant Date, repay that Lender's participation in the Utilisations made to the Borrower together with accrued interest and all other amounts owing to that Lender under the Finance Documents.

7.2 Voluntary Cancellation

The Borrower may, if it gives the Facility Agent not less than three (3) Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum amount of US$ 10,000,000) of the Available Bridge Facility. Any cancellation under this Clause 7.2 (*Voluntary Cancellation*) shall reduce rateably the Commitments of the Lenders under the Bridge Facility.

7.3 Voluntary prepayment of Utilisations

(a) The Borrower may, if it gives the Facility Agent not less than three (3) Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of any Utilisation (but, if in part, being an amount the reduces the amount of that Utilisation by a minimum amount of US$ 10,000,000).

(b) A Utilisation may only be prepaid after the last day of the Availability Period (or, if earlier, the day on which the Available Bridge Facility is zero).

7.4 **Restrictions**

(a) Any notice of cancellation or prepayment given by any Party under this Clause 7 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

(b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs (if any), without premium or penalty.

(c) The Borrower may not reborrow any part of the Bridge Facility which is prepaid.

(d) The Borrower shall not repay or prepay all or any part of the Utilisations or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

(e) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

(f) If the Facility Agent receives a notice under this Clause 7 it shall promptly forward a copy of that notice to either the Borrower or the Lender, as appropriate.

(g) On the prepayment or repayment of any principal amount to a Lender in accordance with the terms of this Agreement, the Commitment of that Lender will be automatically cancelled by a corresponding amount as a result of that prepayment or repayment.

SECTION 6
COSTS OF UTILISATION

8. INTEREST

8.1 Calculation of interest

The rate of interest on each Utilisation for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

(a) Margin;

(b) LIBOR; and

(c) mandatory cost, if any.

8.2 Payment of interest

On the last day of each Interest Period relating to a Utilisation the Borrower shall pay accrued interest on the Utilisation to which that Interest Period relates.

8.3 Default interest

(a) If the Borrower fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is two per cent higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Utilisation in the currency of the overdue amount for successive Interest Periods, each of a duration of one week. Any interest accruing under this Clause 8.3 shall be immediately payable by the Borrower on demand by the Facility Agent.

(b) If any overdue amount consists of all or part of a Utilisation which became due on a day which was not the last day of an Interest Period relating to that Utilisation:

(i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Utilisation; and

(ii) the rate of interest applying to the overdue amount during that first Interest Period shall be two per cent higher than the rate which would have applied if the overdue amount had not become due.

(c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

8.4 Notification of rates of interest

The Facility Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.

8.5 Interest of the first Drawdown

The Parties hereby acknowledge and accept that in order to calculate the rate of interest applicable to the first Interest Period of the first Drawdown, LIBOR shall mean the arithmetic

mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request quoted by the Reference Banks to leading banks in the London interbank market, on or about 11:00 am London time on the date of this Agreement for the offering of deposits in US Dollars and for a period comparable to the Interest Period for that Utilisation.

9. INTEREST PERIODS

9.1 Selection of Interest Periods

(a) The Borrower may select an Interest Period for a Utilisation in the Drawdown Request for that Utilisation or (if the Utilisation has already been borrowed) in a Selection Notice.

(b) Each Selection Notice for a Utilisation is irrevocable and must be delivered to the Facility Agent by the Borrower not later than three (3) Business Days before the end of the relevant Interest Period.

(c) If the Borrower fails to deliver a Selection Notice to the Facility Agent in accordance with paragraph (b) above, the relevant Interest Period will be one Month.

(d) Subject to this Clause 9, the Borrower may select an Interest Period of one week or one Month, or any other period agreed between the Borrower and the Facility Agent (acting on the instructions of all the Lenders).

(e) An Interest Period for a Utilisation shall not extend beyond the Termination Date.

(f) Each Interest Period for a Utilisation shall start on the Drawdown Date or (if already made) on the last day of its preceding Interest Period.

9.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not), it being understood that it shall not extend beyond the Termination Date.

9.3 Consolidation of Utilisations

If two or more Interest Periods:

(a) relate to Utilisations; and

(b) end on the same date,

those Utilisations shall, unless the Borrower specifies to the contrary in the Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Utilisation on the last day of the Interest Period.

10. CHANGES TO THE CALCULATION OF INTEREST

10.1 Absence of quotations

Subject to Clause 10.2 (*Market disruption*), if LIBOR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation on or about 11:00 am London time on the Quotation Day, the applicable LIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

10.2 **Market disruption**

(a) If a Market Disruption Event occurs in relation to a Utilisation for any Interest Period, then the rate of interest on each Lender's share of that Utilisation for the Interest Period shall be the rate per annum which is the sum of:

(i) the Margin;

(ii) the rate notified to the Facility Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in that Utilisation from whatever source it may reasonably select; and

(iii) the mandatory cost, if any, applicable to that Lender's participation in that Utilisation.

(b) In this Agreement "**Market Disruption Event**" means:

(i) at or about noon on the Quotation Day for the relevant Interest Period the Screen Rate not being available and none or only one of the Reference Banks supplying a rate to the Facility Agent to determine LIBOR for the relevant currency and Interest Period; or

(ii) before close of business in Madrid on the Quotation Day for the relevant Interest Period, the Facility Agent receiving notifications from a Lender or Lenders (in either case whose participations in a Utilisation exceed 25 per cent of that Utilisation) that the cost to it or them of obtaining matching deposits in the Relevant Interbank Market would be in excess of LIBOR.

10.3 **Alternative basis of interest or funding**

(a) If a Market Disruption Event occurs and the Facility Agent or the Borrower so requires, the Facility Agent and the Borrower shall enter into negotiations (for a period of not more than ten days) with a view to agreeing a substitute basis for determining the rate of interest.

(b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders participating in the relevant Utilisation and the Borrower, be binding on all Parties.

10.4 **Break Costs**

(a) The Borrower shall, within three Business Days of demand by a Lender, pay to that Lender its Break Costs attributable to all or any part of a Utilisation or Unpaid Sum being paid by the Borrower on a day other than the last day of an Interest Period for that Utilisation or Unpaid Sum.

(b) Each Lender shall, as soon as reasonably practicable after a demand by the Facility Agent, provide a certificate confirming in reasonable detail the amount of its Break Costs for any Interest Period in which they accrue.

11. **FEES**

11.1 The Borrower shall pay to the relevant Lenders an up-front fee in the amount and at the times agreed in the relevant Fee Letter.

11.2 In addition, the Borrower shall pay to the Facility Agent an agency fee in the amount and at the times agreed in the relevant Fee Letter.

SECTION 7
ADDITIONAL PAYMENT OBLIGATIONS

12. **TAX GROSS-UP AND INDEMNITIES**

12.1 **Definitions**

(a) In this Clause 12:

"**Protected Party**" means a Finance Party which is or will be subject to any liability or required to make any payment, for or on account of Tax, in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

"**Qualifying Lender**" means a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document and is:

(i) a legal person or entity (including, for the avoidance of doubt, any securitisation trust or fund) habitually resident for taxation purposes in a Qualifying State which is not acting through a territory considered as a tax haven pursuant to Spanish laws and regulations or through a permanent establishment in Spain; or

(ii) a legal person or entity (including, for the avoidance of doubt, any securitisation trust or fund) which, as a result of any applicable double taxation treaty, is entitled to receive any payments made by the Borrower to such legal person or entity hereunder without any deduction or withholding for or on account of Tax; or

(iii) a Domestic Lender.

"**Qualifying State**" means a member state of the European Union (other than Spain).

"**Tax Credit**" means a credit against, relief or remission from, or repayment of, any Tax.

"**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment made under a Finance Document.

"**Tax Payment**" means either the increase in a payment made by the Borrower to a Finance Party under Clause 12.2 (*Tax gross-up*) or a payment under Clause 12.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 12 a reference to " **determines**" or "**determined**" means a determination made in the absolute good faith discretion of the person making the determination.

12.2 **Tax gross-up**

(a) The Borrower shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law or regulation.

(b) The Borrower or a Lender shall promptly upon becoming aware that the Borrower must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. If the Facility Agent receives such notification from a Lender it shall notify the Borrower.

(c) If a Tax Deduction is required by law or regulation to be made by the Borrower, the amount of the payment due from the Borrower shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due and payable if no Tax Deduction had been required.

(d) The Borrower is not required to make an increased payment to a Lender under paragraph (c) above for a Tax Deduction in respect of Tax imposed by Spain from a payment of interest on a Utilisation, if on the date on which the payment falls due:

(i) the payment could have been made to the relevant Lender without a Tax Deduction if it was a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or treaty, or any published practice or concession of any relevant taxing authority; or

(ii) the relevant Lender is a Qualifying Lender under paragraph (ii) of the definition of "Qualifying Lender" and the Borrower is able to demonstrate that the payment could have been made to the Lender without any Tax Deduction if the Lender had complied with its obligations under paragraph (g) below.

(e) If the Borrower is required to make a Tax Deduction, the Borrower shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law or regulation.

(f) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Borrower shall deliver to the Facility Agent for the Finance Party entitled to the payment an original receipt (or certified copy thereof) or if unavailable such other evidence as is reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

(g) A Lender that is a Qualifying Lender under paragraph (ii) of the definition of "Qualifying Lender" and the Borrower which is required to make a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for the Borrower to obtain authorisation to make that payment without a Tax Deduction.

(h) Each Lender confirms that it is a Qualifying Lender.

12.3 **Tax indemnity**

(a) A Borrower shall (within five Business Days of demand by the Facility Agent) pay to a Protected Party an amount equal to the amount of any Tax assessed on that Protected Party (together with any interest, costs or expenses payable, directly or indirectly, or incurred in connection therewith) in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

(b) Paragraph (a) of this Clause 12.3 shall not apply:

(i) with respect to any Tax assessed on a Finance Party:

(A) under the laws and regulations of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for Tax purposes; or

(B) under the laws and regulations of the jurisdiction in which that Finance Party's office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or

(ii) to the extent a loss, liability or cost:

(A) is compensated for by an increased payment under Clause 12.2 (*Tax gross-up*); or

(B) would have been compensated for by an increased payment under Clause 12.2 (*Tax gross-up*) but was not so compensated solely because one of the exclusions in paragraph (d) of Clause 12.2 (*Tax gross-up*) applied.

(c) A Protected Party making, or intending to make a claim pursuant to paragraph (a) of this Clause 12.3 shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Borrower.

(d) A Protected Party shall, on receiving a payment from the Borrower under this Clause 12.3, notify the Facility Agent.

12.4 **Tax Certificates**

(a) Without prejudice to the other provisions of this Clause 12, in relation to any exemption from or application of a rate lower than that of general application pursuant to any legislation in Spain or any double taxation treaty, or pursuant to any other cause relating to residence status, any Lender which is not a Domestic Lender shall supply the Borrower, through the Facility Agent, prior to the interest payment date with a certificate of residence issued by the pertinent fiscal administration, in the case of a Qualifying Lender which is not a Domestic Lender, accrediting such Qualifying Lender as resident for Tax purposes in a Qualifying State or, as the case may be, accrediting such Lender as resident for Tax purposes in a State which has signed and ratified a double taxation treaty with Spain.

(b) As such certificates referred to in paragraph (a) of this Clause 12.4 are, at the date hereof, valid only for a period of one year, each such Lender will be required to so supply a further such certificate upon expiry of the previous certificate in relation to any further payment of interest.

(c) If any Lender which has supplied a certificate under paragraph (a) of this Clause 12.4 becomes aware that any information contained in that certificate is not correct in all material respects throughout the period for which that certificate is valid, it shall, as soon as practicable, supply the Facility Agent with details of that matter, following which the Facility Agent shall supply those details to the Borrower, and, if appropriate, that Lender shall promptly supply a new certificate pursuant to paragraph (a) of this Clause 12.4.

12.5 **Tax Credit**

If the Borrower makes a Tax Payment and the relevant Finance Party determines that:

(a) a Tax Credit is attributable either to an increased payment of which that Tax Payment forms part, or to that Tax Payment; and

(b) that Finance Party has obtained, utilised and retained that Tax Credit,

the Finance Party shall pay an amount to the Borrower which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Borrower.

12.6 **Stamp Taxes**

The Borrower shall pay and, within five Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document except for any such Tax payable in connection with the entering into of a Transfer Certificate.

12.7 **Value Added Tax**

(a) All consideration expressed to be payable under a Finance Document by any Party to a Finance Party shall be deemed to be exclusive of any amount in respect of VAT. If VAT is chargeable on any supply made by any Finance Party to any Party in connection with a Finance Document, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the VAT and such Finance Party shall promptly provide an appropriate VAT invoice to such Party.

(b) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify that Finance Party against all amounts in respect of VAT incurred by the Finance Party in respect of the costs or expenses to the extent that the Finance Party reasonably determines that it is not entitled to credit or repayment of the VAT.

13. **INCREASED COSTS**

13.1 **Increased costs**

(a) Subject to Clause 13.2 *(Increased cost claims)* and Clause 13.3 (*Exceptions*) the Borrower shall, within three Business Days of a demand by the Facility Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its affiliates as a result of:

(i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or

(ii) compliance with any law or regulation,

in each case made after the date of this Agreement.

(b) In this Agreement "**Increased Costs**" means, without duplication:

(i) a reduction in the rate of return from the Bridge Facility or on a Finance Party's (or its affiliate's) overall capital;

(ii) an additional or increased cost; or

(iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party to the extent that it is attributable to that Finance Party having entered into its Commitments or funding or performing its obligations under any Finance Document.

13.2 **Increased cost claims**

(a) A Finance Party intending to make a claim pursuant to Clause 13.1 (*Increased costs*) shall notify the Facility Agent of the event giving rise to the claim and a calculation evidencing in reasonable detail the amount of such Increased Costs to be claimed by such Finance Party, following which the Facility Agent shall promptly notify the Borrower and provide the Borrower with such calculations.

(b) Each Finance Party shall, as soon as practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Increased Costs.

13.3 **Exceptions**

(a) Clause 13.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

(i) attributable to a Tax Deduction required by law or regulation to be made by the Borrower;

(ii) compensated for by Clause 12.3 (*Tax indemnity)* (or would have been compensated for under Clause 12.3 (*Tax indemnity)* but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 12.3 (*Tax indemnity*) applied);

(iii) attributable to the breach by the relevant Finance Party of any law or regulation;

(iv) attributable to the implementation of or compliance with the "International Convergence of Capital Measurements and Capital Standards—a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement ("**Basel II**") or any other law or regulation that implements Basel II (whether such implementation or compliance is by a government, governmental regulator, Finance Party or an affiliate thereof); or

(v) compensated by the payment of any mandatory cost.

(b) In this Clause 13.3, a reference to a "**Tax Deduction**" has the same meaning given to the term in Clause 12.1 *(Definitions)*.

14. OTHER INDEMNITIES

14.1 Currency indemnity

(a) If any sum due from the Borrower under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

(i) making or filing a claim or proof against the Borrower; or

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Borrower shall as an independent obligation, within three Business Days of demand, indemnify each Secured Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) The Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

14.2 Other indemnities

(a) The Borrower shall, within five Business Days of demand, indemnify each Secured Party against any cost, loss or liability not otherwise compensated under the provisions of this Agreement and excluding any lost profits, consequential or indirect damages (other than interest or default interest) incurred by that Secured Party as a result of its Commitment or the making of any Utilisation under the Finance Documents as a result of:

(i) the occurrence of any Event of Default;

(ii) a failure by the Borrower to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 25 (*Sharing among the Finance Parties*);

(iii) funding, or making arrangements to fund, its participation in a Utilisation requested by the Borrower in a Drawdown Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or

(iv) a Utilisation (or part of a Utilisation) not being prepaid in accordance with a notice of prepayment given by the Borrower.

14.3 **Indemnity to the Facility Agent**

The Borrower shall promptly indemnify the Facility Agent against any cost, loss or liability directly related to this Agreement incurred by the Facility Agent (acting reasonably and otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct, as the case may be) as a result of:

(a) investigating any event which it reasonably believes (acting prudently and, if possible, following consultation with the Borrower) is a Default; or

(b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or

(c) the taking, holding, protection or enforcement of the Transaction Security.

15. MITIGATION BY THE LENDERS

15.1 **Mitigation**

(a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise after the date of this Agreement and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 (*Illegality of a Lender*), Clause 12 (*Tax Gross-up and Indemnities)* or Clause 13 (*Increased Costs)*.

(b) Paragraph (a) above does not in any way limit the obligations of the Borrower under the Finance Documents.

15.2 **Limitation of liability**

(a) The Borrower shall indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 15.1 (*Mitigation*).

(b) A Finance Party is not obliged to take any steps under Clause 15.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

16. COSTS AND EXPENSES

16.1 **Transaction expenses**

The Borrower shall within 15 days of receipt of a demand (and delivery of the relevant receipts, invoices or other documentary evidence), pay the Facility Agent the amount of all costs and expenses (including reasonable legal fees and notarial fees) reasonably incurred by any of the Lenders in connection with the negotiation, preparation, printing and execution of the Finance Documents and the perfection of the Transaction Security.

16.2 **Amendment costs**

If the Borrower requests an amendment, waiver or consent, the Borrower shall, within five Business Days of demand, reimburse the Facility Agent and each Lender for the amount of all costs and expenses (including legal fees, but in this case, only the reasonable legal fees of one

law firm in each relevant jurisdiction acting on behalf of all the Lenders) reasonably incurred by such parties in responding to, evaluating, negotiating or complying with that request or requirement.

16.3 **Valuation costs**

The Borrower shall, within three Business Days of demand, pay to the Facility Agent the cost of any valuation carried out in relation to any Real Property to be delivered in accordance with Clause 19.25 (*Valuation*).

16.4 **Enforcement and preservation costs**

The Borrower shall, within three Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document and the Transaction Security and any proceedings instituted by or against any other Secured Party as a consequence of taking or holding the Transaction Security or enforcing these rights.

16.5 **Transaction Security costs**

The Borrower shall, within three Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including legal and notarial fees, property registry costs and stamp taxes) incurred by that Secured Party in connection with the assignment of the benefit of any Transaction Security.

SECTION 8
REPRESENTATION, UNDERTAKINGS AND EVENTS OF DEFAULT

17. REPRESENTATIONS

The Borrower makes the representations and warranties set out in this Clause 17 to each Finance Party.

17.1 Status

(a) It is a corporation, duly organised and validly existing under the laws and regulations of Spain.

(b) It has the power to own its assets and carry on its business as it is being conducted.

17.2 Binding obligations

The obligations expressed to be assumed by it in each Finance Document are legal, valid, binding and enforceable obligations.

17.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

(a) any law or regulation applicable to it;

(b) its constitutional documents; or

(c) any agreement or instrument binding upon it or any of its assets, except if the relevant waiver has been obtained or the Borrower has provided evidence, at the satisfaction of the Lenders, as to the fact that no Material Adverse Effect may derive from this.

In particular, the Transaction Security, together with any other Security (that is not Permitted Security under Clause 19.5 (*Negative pledge*) (other than under paragraph (l)) securing indebtedness of the Borrower and its Subsidiaries (taken as a whole) falls within the limit of an amount equal to 5 per cent of the Adjusted Consolidated Tangible Net Assets of the Group (as such term is defined in Clause 19.5 below), as determined in accordance with GAAP.

17.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

17.5 Validity and admissibility in evidence

All authorisations, consents, approvals, resolutions, licences, exemptions, filings, notarisations, registrations required or desirable:

(a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and

(b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect or will be obtained in accordance with the provisions of this Agreement.

17.6 **Governing law and enforcement**

(a) The choice of governing law of each of the Finance Documents will be recognised and enforced in its jurisdiction of incorporation.

(b) Any judgment obtained in Spain in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation.

17.7 **Deduction of Tax**

Subject to the completion of any procedural formality and any reservations contained in Clause 22 (*Changes to the Borrower*), it is not required under the laws and regulations of its jurisdiction of incorporation to make any deduction for or on account of Tax from any payment it may make under any Finance Document to any Qualifying Lender.

17.8 **No filing or stamp taxes**

Under the laws and regulations of its jurisdiction of incorporation it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar Tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents, except for those arising from the recording of the Transaction Security at the relevant Property Registries and payment of notarial registry fees and stamp duty.

17.9 **No default**

(a) No Default is continuing or might reasonably be expected to result from the making of any Drawdown.

(b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on them or any of its Subsidiaries or to which its (or its Subsidiaries') assets are subject which has or is reasonably likely to have a Material Adverse Effect.

17.10 **No misleading information**

All material written information supplied by any member of the Group in relation to the Finance Documents is true, complete and accurate in all material respects as at the date it was given or stated to be given and is not misleading in any material respect.

17.11 **Pari passu ranking**

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law or regulation applying to companies generally.

17.12 **No proceedings pending or threatened**

Except as disclosed in Schedule 8 (*Proceedings pending or threatened*), no litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which (i) are likely to be adversely determined and which, if so determined, would be reasonably likely to have a Material Adverse Effect or (ii) (where not of a frivolous or vexatious nature or where not dismissed within 30 days of commencement) purport to affect the legality, validity or enforceability of any of the obligations under the Finance Documents, have been started or threatened against the Borrower or any Material Subsidiary.

17.13 **No winding-up**

No legal proceedings or other procedures or steps have been taken or, to the Borrower's knowledge after reasonable enquiry, are being threatened, in relation to the winding-up, dissolution, administration of the Borrower or Material Subsidiary (other than a solvent liquidation of any Material Subsidiary).

17.14 **Material Adverse Change**

Except as disclosed in the bank presentations made by Cemex España to Lenders in New York on 13 November 2008 and in Madrid on 14 November 2008, and the guidance relating to the fourth financial quarter of 2008 published by Cemex Parent on 15 December 2008 on its web page and the bank presentations made by Cemex España to Lenders in Madrid on 12 and 13 March 2009, there has been no material adverse change in the Borrower's business, condition (financial or otherwise), operations, performance or assets taken as a whole (or the business, consolidated condition (financial or otherwise) operations, performance or the assets generally of the Group taken as a whole) since the date of the Borrower's semi annual consolidated financial statements for the half year ended 30 June 2008.

17.15 **Environmental compliance**

Each member of the Group has performed and observed in all material respects all environmental law, environmental permits and all other material covenants, conditions, restrictions or agreements directly or indirectly concerned with any contamination, pollution or waste or the release or discharge of any toxic or hazardous substance in connection with any real property which is or was at any time owned, leased or occupied by any member of the Group or on which any member of the Group has conducted any activity where failure to do so might reasonably be expected to have a Material Adverse Effect.

17.16 **Environmental Claims**

No environmental claim has been commenced or (to the best of its knowledge and belief) is threatened against any member of the Group where that claim would be reasonably likely, if finally determined against that member of the Group, to have a Material Adverse Effect.

17.17 **No Immunity**

In any proceedings taken in its jurisdiction of incorporation in relation to the Finance Documents, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

17.18 **Private and commercial acts**

Its execution of the Finance Documents constitutes, and its exercise of its rights and performance of its obligations hereunder will constitute, private and commercial acts done and performed for private and commercial purposes.

17.19 **Security**

No Security exists over all or any of the present or future assets of any member of the Group other than any Security permitted under Clause 19.5 (*Negative Pledge*).

17.20 **Ranking**

The Transaction Security has or will have first ranking priority and it is not subject to any prior ranking or pari passu ranking Security over the Charged Properties.

17.21 **Transaction Security**

Each Security Document to which it is a party, upon its registration with the relevant Property Registries, validly creates the Security which is expressed to be created by that Security Document and evidences the Security it is expressed to evidence.

17.22 **Good title to assets**

It has good, valid and marketable title to, or valid leases or licences of, and all appropriate authorisations, consents, approvals, resolutions, licences, exemptions, filings, notarisations, registrations to use, the assets necessary to carry on its business as presently conducted.

17.23 **Legal and beneficial owner**

It is the absolute legal owner and beneficial owner of the assets subject to the Transaction Security.

17.24 **Centre of main interests and establishments**

It has its "centre of main interests" (as that term is used in Article 3(1) of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the "**Regulation**") in its jurisdiction of incorporation; and it has not an "establishment" (as this term is defined in article 2 (h) of the Regulation) in a jurisdiction other than in Luxembourg.

17.25 **Times on which representations are made**

(a) All the representations and warranties in this Clause 17 are made to each Finance Party on the date of this Agreement.

(b) The Repeating Representations are deemed to be made by the Borrower to each Finance Party on the date of each Drawdown Request and on the first day of each Interest Period.

(c) Each representation or warranty deemed to be made after the date of this Agreement shall be made by reference to the facts and circumstances existing at the date the representation or warranty is made and in relation to Clause 17.12 (*No proceedings pending or threatened*), as disclosed from time to time.

18. **INFORMATION UNDERTAKINGS**

The undertakings in this Clause 18 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

18.1 **Information: miscellaneous**

The Borrower shall supply to the Facility Agent:

(a) all documents dispatched by the Borrower to its shareholders or its creditors generally at the same time as they are dispatched;

(b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, or which, to the Borrower's knowledge after reasonable enquiry, are being threatened or are pending and are likely to be

adversely determined against any member of the Group which, in the reasonable opinion of the Borrower, are not spurious or vexatious, and which might, if adversely determined, have a Material Adverse Effect; and

(c) promptly, such further information regarding the financial condition, assets and business of the Borrower or member of the Group as the Facility Agent (or any Lender through the Facility Agent) may reasonably request other than any information the disclosure of which would result in a breach of any applicable law or regulation or confidentiality agreement entered into in good faith by any member of the Group **provided that** the Borrower shall use reasonable efforts to be released from any such confidentiality agreement.

18.2 **Notification of default**

(a) The Borrower shall notify the Facility Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

(b) Promptly upon a request by the Facility Agent, the Borrower shall supply to the Facility Agent a certificate signed by an authorised signatory on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

18.3 **"Know your client" checks**

The Borrower shall promptly upon the request of the Facility Agent or any Lender and each Lender shall promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective New Lender) in order for the Facility Agent, such Lender or any prospective New Lender to carry out and be satisfied with the results of all necessary " **know your client**" or other checks in relation to the identity of any person that it is required by law to carry out in relation to the transactions contemplated in the Finance Documents. For the avoidance of doubt, a Lender will have no obligation towards the Facility Agent to evidence that it has complied with any " **know your client**" or similar checks in relation to the Borrower.

19. **GENERAL UNDERTAKINGS**

The undertakings in this Clause 19 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

19.1 **Authorisations**

The Borrower shall promptly:

(a) obtain, comply with and do all that is necessary to maintain in full force and effect; and

(b) supply certified copies to the Facility Agent of,

any authorisations, consents, approvals, resolutions, licences, exemptions, filings, notarisations, registrations required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document.

19.2 **Preservation of corporate existence**

Subject to Clause 19.8 (*Merger*), the Borrower shall (and shall ensure that each of its Material Subsidiaries shall), preserve and maintain its corporate existence and rights.

19.3 **Preservation of properties**

The Borrower shall (and shall ensure that each of its Material Subsidiaries shall) maintain and preserve all of its properties that are used in the conduct of its business in good working order and condition (ordinary wear and tear excepted).

19.4 **Compliance with laws and regulations**

(a) The Borrower shall (and shall procure that each of its Subsidiaries shall) comply in all respects with all laws and regulations to which it may be subject, if failure to so comply would be likely to have a Material Adverse Effect.

(b) The Borrower shall (and shall procure that each of its Subsidiaries shall) ensure that the levels of contribution to pension schemes are and continue to be sufficient to comply with all its and their material obligations under such schemes and generally under applicable laws and regulations, except where failure to make such contributions would not reasonably be expected to have a Material Adverse Effect.

19.5 **Negative pledge**

The Borrower shall not (and shall not permit any of its Subsidiaries to), directly or indirectly, create, incur, assume or permit to exist any Security on or with respect to any of its property or assets or those of any Subsidiary, whether now owned or held or hereafter acquired, other than the following Security ("**Permitted Security**").

(a) Security for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made;

(b) statutory liens of landlords and liens of carriers, warehousemen, mechanics and materialment incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made;

(c) liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security and any deposits of Cemex Australia Holdings Pty Limited (ABN 46 122 401 405) required by law or order of a competent authority in relation to the offer process through which it acquired Rinker Group Pty Ltd (ABN 53 003 433 118);

(d) any attachment or judgment lien, unless the judgment it secures is for an amount exceeding US$ 10,000,000, shall not, within 15 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 15 days after the expiration of any such stay;

(e) Security existing on 30 September 2008 as described in Schedule 5 (*Existing Security*) **provided that** the principal amount secured thereby is not increased without the consent of the Facility Agent (acting on the instructions of the Majority Lenders);

(f) any Security on property acquired by the Borrower or any of its Subsidiaries after the date of this Agreement that was existing on the date of acquisition of such property **provided that** such Security was not incurred in anticipation of such acquisition; and any Security created to secure all or any part of the payment of the purchase price, or to secure indebtedness incurred or assumed to pay all or any part of the payment of the purchase price, of property acquired by the Borrower or any of its Subsidiaries after the date of this Agreement, **provided**, **further**, **that** (i) any such Security permitted pursuant to this paragraph (f) shall be confined solely to the item or items of property so acquired (including, in the case of any acquisition of a corporation through the acquisition of more than 50 per cent of the voting stock of such corporation, the stock and assets of any acquired Subsidiary or acquiring Subsidiary by which the acquired Subsidiary shall be directly or indirectly controlled) and, if required by the terms of the instrument originally creating such Security, other property which is an improvement to, or is acquired for specific use with, such acquired property; (ii) if applicable, any such Security shall be created within nine Months after, in the case of property, its acquisition, or, in the case of improvements, their completion; and (iii) no such Security shall be made in respect of any indebtedness in relation to repayment of which recourse may be had to any member of the Group (in the form of Security) other than in relation to the item or items as referred to in (i) above;

(g) any Security renewing, extending or refinancing the indebtedness to which any Security permitted by paragraph (l) above relates; **provided that** the principal amount of indebtedness secured by such Security immediately prior thereto is not increased and such Security is not extended to other property;

(h) any Security created on shares representing no more than a Stake in the capital stock of the Borrower's Subsidiaries solely as a result of the deposit or transfer of such shares into a trust or a special purpose corporation (including any entity with legal personality) of which such shares constitute the sole assets **provided that** such Security may not secure Financial Indebtedness of the Borrower or any Subsidiary unless otherwise permitted under this Clause 19.5 and that the economic and voting rights in such capital stock is maintained by the Borrower in its Subsidiaries;

(i) the Transaction Security;

(j) any Security permitted by the Facility Agent, acting on the instructions of the Majority Lenders;

(k) any Security created pursuant to or in respect of a Permitted Securitisation; or

(l) in addition to the Security permitted by the foregoing paragraphs (a) to (k), Security securing indebtedness of the Borrower and its Subsidiaries (taken as a whole) not in excess of an amount equal to 5 per cent of the Adjusted Consolidated Tangible Net Assets of the Group, as determined in accordance with GAAP,

unless, in each case, the Borrower has made or caused to be made effective provision whereby the obligations hereunder are secured equally and rateably with, or prior to, the indebtedness secured by such Security (other than Permitted Security) for so long as such indebtedness is so secured.

For the purposes of paragraph (l) of this Clause 19.5, "**Adjusted Consolidated Net Tangible Assets**" means, with respect to any person, the total assets of such person and its Subsidiaries (less applicable depreciation, amortisation and other valuation reserves), including any write-ups or restatements required under GAAP (other than with respect to items referred to in (ii) below), minus (i) all current liabilities of such person and its Subsidiaries (excluding the current portion of long-term debt) and (ii) all goodwill, trade names, trademarks, licences, concessions, patents, un-amortised debt discount and expense and other intangibles, all as determined on a consolidated basis in accordance with GAAP and by reference to the latest consolidated financial statements of the Borrower.

19.6 **Acquisitions and Investments**

The Borrower shall not (and shall procure that none of its Subsidiaries will) carry out after the date of this Agreement, until the Termination Date:

(i) any acquisition (other than acquisitions in the ordinary course of trading or those indicated in Schedule 9 (*Acquisitions*) hereto); or

(ii) any investments, which are not investments made for the maintenance or replacement of existing plant and equipment used for the business of Cemex Parent or its Subsidiaries exceeding US$ 350,000,000 in aggregate for Cemex Group.

19.7 **Permitted Securitisations and leasing transactions**

The Borrower shall use its reasonable endeavours to procure that any leasing transactions in respect of material plant and machinery required for the business of the Group or Permitted Securitisations which have been entered into as at the Effective Date continue.

19.8 **Merger**

(a) Subject to paragraph (b) of this Clause 19.8, unless it has obtained the prior written approval of the Majority Lenders, the Borrower shall not (and shall ensure that none of its Subsidiaries shall) enter into any amalgamation, demerger, merger or other corporate reconstruction (a "**Reconstruction**"), other than (i) a Reconstruction relating only to Cemex Parent's Subsidiaries *inter se*; (ii) a Reconstruction between the Borrower and any of its Subsidiaries; or (iii) a solvent reorganisation or liquidation of any of the Subsidiaries of the Borrower, **provided that** in any case no Default shall have occurred and be continuing at the time of such transaction or would result therefrom and **provided further that** (a) none of the Security (if any) granted to the Lenders is or are adversely affected as a result, and (b) the resulting entity assumes the obligations of the Borrower the subject of the merger.

(b) Subject to paragraph (c) of this Clause 19.8, the Borrower may merge with any other person if the book value of such person's assets prior to the merger does not exceed 3 per cent of the book value of the Group's assets taken as a whole considered on a consolidated basis.

(c) No merger otherwise permitted by paragraphs (a) and (b) of this Clause 19.8 shall be so permitted if as a result the then existing ratings of the Borrower would be downgraded whether at the time of, or within 3 Months of, the date of announcement of a Reconstruction, directly as a result of any merger involving the Borrower. Furthermore the resulting entity of any merger otherwise permitted by paragraphs (a) and (b) of this Clause 19.8, shall assume the obligations of the Borrower which is the subject of the merger.

19.9 **Change of business**

(a) The Borrower shall not make a substantial change to the general nature of its business from that carried on at the date of this Agreement.

(b) The Borrower shall not cease to carry on its business.

(c) The Borrower shall procure that no substantial change is made to the general nature of the business of any of its Material Subsidiaries from that carried on at the date of this Agreement and that there shall be no cessation of such business.

19.10 **Insurance**

The Borrower shall (and shall ensure that each of its Material Subsidiaries shall) maintain insurances on and in relation to their business and assets with reputable underwriters or insurance companies against those risks and to the extent as is usual for companies carrying on the same or substantially similar business where such insurance is available on reasonable commercial terms.

19.11 **Environmental Compliance**

The Borrower shall (and shall ensure that each of its Subsidiaries shall) comply in all material respects with all environmental law and obtain and maintain any material environmental permits and take all reasonable steps in anticipation of known or expected future changes to or obligations under the same, in each case where failure to do so might reasonably be expected to have a Material Adverse Effect.

19.12 **Environmental Claims**

The Borrower shall inform the Facility Agent in writing as soon as reasonably practicable upon becoming aware of the same:

(a) if any environmental claim has been commenced or (to the best of the Borrower's knowledge and belief) is threatened against any member of the Group which is likely to be determined adversely to the member of the Group; or

(b) of any facts or circumstances which will or are reasonably likely to result in any environmental claim being commenced or threatened against any member of the Group, where the claim would be reasonably likely, if finally determined against that member of the Group, to have a Material Adverse Effect.

19.13 **Transactions with affiliates**

The Borrower shall (and shall ensure that its Subsidiaries shall) ensure that any transactions with its respective affiliates are on terms that are fair and reasonable and no less favourable to the Borrower or such Subsidiary than it would obtain in a comparable arm's-length transaction with a person who is not an affiliate.

19.14 **Pari passu ranking**

The Borrower shall ensure that at all times its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law or regulation applying to companies generally from time to time.

19.15 **Subsidiary Financial Indebtedness incurrence**

If, at any time, the aggregate outstanding principal amount of Subsidiary Financial Indebtedness exceeds 15 per cent of the Consolidated Total Assets, then for so long as such remains the case, no Subsidiary of the Borrower (except Subsidiaries described in paragraph (e) of the definition of "**Subsidiary Financial Indebtedness**" below) may, directly or indirectly, create, incur, assume or otherwise become liable with respect to any other Financial Indebtedness.

"**Subsidiary Financial Indebtedness**" means Financial Indebtedness of a Subsidiary of the Borrower other than:

(a) Financial Indebtedness of a Subsidiary of the Borrower as disclosed in Schedule 7 (*Existing Financial Indebtedness*) **provided that**:

(i) the principal amount of such Financial Indebtedness shall not be increased above the principal amount thereof outstanding immediately prior to any extension, refunding or refinancing; and

(ii) the aggregate amount of all Financial Indebtedness that has been extended, refunded or refinanced under this paragraph (a) shall not exceed US Dollars 250,000,000 (or the equivalent thereof if denominated in another currency),

for the avoidance of doubt, it is understood that:

(X) if any such Financial Indebtedness is successively extended, refinanced or refunded, only the Financial Indebtedness outstanding after giving effect to all such successive extensions, refinancing and refundings shall be counted against the foregoing amount; and

(Y) any Financial Indebtedness incurred in a currency other than US Dollars pursuant to this paragraph (a) shall continue to be permitted under this paragraph (a), notwithstanding any fluctuation in currency values, as long as the outstanding principal amount of such Financial Indebtedness (denominated in its original currency) does not exceed the maximum

amount of such Financial Indebtedness (denominated in such currency) permitted to be outstanding on the date such Financial Indebtedness was incurred);

(b) Financial Indebtedness of a Subsidiary of the Borrower owed to the Borrower or another Subsidiary of the Borrower;

(c) Financial Indebtedness of a Subsidiary of the Borrower that was:

(i) outstanding at the time such Subsidiary became a Subsidiary of the Borrower; or

(ii) contractually required to be incurred by such Subsidiary at such time,

provided that such Financial Indebtedness shall not have been incurred in contemplation of such Subsidiary becoming a Subsidiary of the Borrower and **provided that** there is no recourse to any member of the Group other than such Subsidiary following the date falling 60 days after such Subsidiary became a Subsidiary of the Borrower;

(d) any Financial Indebtedness extending the maturity of the Financial Indebtedness referred to in paragraph (c) above, or any refunding or refinancing of the same, **provided that** the principal amount of such Financial Indebtedness shall not be increased above the principal amount thereof outstanding immediately prior to such extension, refunding or refinancing;

(e) Financial Indebtedness of a Subsidiary of the Borrower which:

(i) has been formed for the purpose of, and whose primary activities are, the issuance or other incurrence of debt obligations to persons other than affiliates of the Borrower and the lending or other advance of the net proceeds of such debt obligations (whether directly or indirectly) to the Borrower; and

(ii) has no significant assets other than debt obligations, promissory notes and other contract rights in respect of funds advanced to the Borrower; and

(f) Financial Indebtedness of a Subsidiary of the Borrower incurred pursuant to or in connection with any pooling agreements in place within a bank or financial institution, but only to the extent of offsetting credit balances of the Borrower or its Subsidiaries pursuant to such pooling arrangement.

For the purposes of this Clause 19.15 (*Subsidiary Financial Indebtedness incurrence*):

"**Consolidated Total Assets**" means, at any time, the total assets of the Borrower and its Subsidiaries, as determined in accordance with Spanish GAAP by reference to the most recent financial statements of the Borrower, **provided that** such financial statements shall be adjusted to reflect the acquisition of any Subsidiary.

19.16 **Payment restrictions affecting Subsidiaries**

The Borrower shall not enter into or suffer to exist, or permit any of its Subsidiaries to enter into or suffer to exist, any agreement or arrangement (other than any Finance Document) directly limiting the ability of any of its Subsidiaries to:

(a) declare or pay dividends or other distributions in respect of its or their respective equity interests in a Subsidiary, except any agreement or arrangement entered into by a person prior to such person becoming a Subsidiary, in which case the Borrower shall use its reasonable endeavours to remove such limitations. If however, such limitations are reasonably likely to affect the ability of the Borrower to satisfy its payment obligations under this Agreement, the Borrower shall use its best endeavours to remove such limitations as soon as possible; or

(b) repay or capitalise any intercompany indebtedness owed by any Subsidiary to the Borrower and, for the avoidance of doubt, subordination provisions shall not be considered a limitation for the purpose of this Clause 19.16.

The provisions of paragraphs (a) and (b) above shall not restrict:

(i) any agreements or arrangements that are binding upon any person in connection with a Permitted Securitisation and any agreement or arrangement that limits the ability of any Subsidiary of the Borrower that transfers receivables and related assets pursuant to a Permitted Securitisation to distribute or transfer receivables and related assets **provided that**, in each case, all such agreements and arrangements are customarily required by the institutional sponsor or arranger of such Permitted Securitisation in similar types of documents relating to the purchase of receivables and related assets in connection with the financing thereof;

(ii) customary provisions in joint venture agreements relating to dividends or other distributions in respect of such joint venture or the securities, assets and revenues of such joint venture; and

(iii) restrictions on distributions applicable to Subsidiaries of the Borrower that are the subject of agreements to sell or otherwise dispose of the stock or assets of such Subsidiaries pending such sale or other disposition.

19.17 **Notification of adverse change in Ratings**

The Borrower shall promptly notify the Facility Agent of any change in its ratings or outlook.

19.18 **Restrictions on Leases**

The Borrower shall not grant (or agree to grant):

(a) any licence or consent (whether expressly or by conduct) for assignment, parting with or sharing possession or occupation, underletting, change of use or alterations in relation to any lease or allow any person any licence or other right to use, occupy or share possession of all or any part of the Charged Property; or

(b) any lease of, or relating to, any of the Charged Property or accept (or agree to accept) any surrender, cancellation, assignment, charge or any other disposal of, or agree to vary, the provisions of any lease of, or relating to, the Charged Property.

19.19 **Access, Repair and Alterations**

The Borrower shall:

(a) supply to the Lenders promptly upon request any information in relation to the Real Property and leases that the Lenders reasonably require and permit the Lenders, their agents, officers and employees free access at all reasonable times (and, prior to Default, on reasonable notice) to view the state and condition of the Charged Property;

(b) repair and keep in good and substantial repair to the reasonable satisfaction of the Lenders all buildings, trade and other fixtures, plant, machinery and chattels at any time (and, prior to a Default, on reasonable notice) forming part of the Charged Property and when necessary replace such items with others of similar quality and value; and

(c) not at any time (i) effect, carry out or permit any demolition, reconstruction or rebuilding of or any structural alteration or material change in the use of the Real Property, or (ii) sever or unfix or remove any of the fixtures, fittings, plant or machinery (other than its stock in trade or work in progress) on or in the Charged Property (except for the purpose and in the course of making necessary repairs to that item or of replacing that item with new or improved models or substitutes.

19.20 **Compliance with Laws**

The Borrower shall comply with:

(a) all laws for the time being in force; and

(b) every notice, order, binding directive, licence, consent or permission given or made under any law by, or the requirements of, any competent authority or governmental body,

in each case, insofar as they relate to any Real Property or the occupation and use of any Real Property.

19.21 **Planning**

The Borrower shall:

(a) substantially comply with and observe and perform all requirements of the planning laws and all buildings and other regulations and by-laws so far as they affect each Real Property or affect the user of the Real Property;

(b) substantially comply with any conditions attaching to any planning permissions relating to or affecting the Real Property and will not carry out any development on or of any Real Property or make any material change in use of any Real Property; and

(c) not enter or agree to enter into any agreement under the planning law (*acuerdos de planeamiento urbanístico*).

19.22 **Notices**

The Borrower shall:

(a) promptly give to the Lenders full particulars and, if requested by the Lenders, a copy of, any notice, order, directive, designation, resolution or proposal which applies to any of the Charged Property or to the area in which it is situated by any planning authority or other public body or authority under or by virtue of the Planning Acts or environmental laws or any other statutory power conferred by any other law; and

(b) if required by the Lenders, without delay and at the cost of the Borrower, take all reasonable or expedient steps to comply with any such notice or order including, if so requested, joining with the Lenders in making such objections or representations against or in respect of any proposal for such a notice or order as the Lenders shall consider expedient.

19.23 **Title**

The Borrower shall:

(a) observe and perform all restrictions and obligations deriving from easements or other rights over real estate or from urban planning now or at any time affecting any Real Property to the extent that they are subsisting and capable of being enforced; and

(b) duly and diligently enforce all restrictions or other obligations deriving from easements or other rights over real estate or from urban planning benefiting any Real Property and not waive, release or vary (or agree so to do) the obligations of any other party thereto.

19.24 **Compensation Payments**

If any moneys become payable to the Borrower by way of compensation in respect of the Real Property subject to the Transaction Security, those moneys shall, unless the Lenders otherwise agree in writing, be transferred to a bank account to be determined by the Lenders open in the name of the Borrower, which shall be subject to the relevant Security in favour of the Secured Parties. Such amounts shall be applied as established in the Transaction Security.

The Lenders shall be entitled and are irrevocably authorised by the Borrower to give a good receipt on behalf of the Borrower for those moneys.

19.25 **Valuation**

The Borrower shall, within a maximum period of 30 days as from the date of this Agreement, obtain a valuation prepared by a mutual acceptable valuation company (for the avoidance of doubt, TINSA shall be an acceptable valuation company for the Lenders) and addressed to the Borrower for the benefit of the Secured Parties showing a valuation in respect of the Real Property.

19.26 **Transaction Security**

In the event that the Transaction Security cannot be recorded with the relevant Property Registries corresponding to the Charged Property due to a defect that cannot be cured (*defecto insubsanable*), the Borrower shall be obliged to grant a mortgage security for an equivalent amount of that of the Transaction Security within a period of five Business Days as from the

date on which the Borrower was notified of the rejection by the corresponding Property Registries. Such new mortgage security shall be satisfactory for the Lenders and shall be granted in a manner allowing in any case its recording with the relevant Property Registries.

20. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 20 is an Event of Default.

20.1 Non-payment

The Borrower does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless such failure to pay is caused by an administrative error or technical difficulties within the banking system in relation to the transmission of funds and payment is made within three Business Days of its due date.

20.2 Other obligations

(a) The Borrower does not comply with any provision of the Finance Documents (other than those referred to in Clause 20.1 (*Non-payment*)).

(b) No Event of Default under paragraph (a) of this Clause 20.2 above will occur if the failure to comply is capable of remedy and is remedied within fifteen Business Days of the Facility Agent giving written notice to the Borrower or the Borrower becoming aware of the failure to comply, whichever is the earlier.

20.3 Misrepresentation

Any representation or statement made or deemed to be made by the Borrower in the Finance Documents or any other document delivered by or on behalf of the Borrower under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

20.4 Cross acceleration

(a) Any Financial Indebtedness of the Borrower or member of the Group is not paid when due nor within any originally applicable grace period.

(b) Any Financial Indebtedness of the Borrower or member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

(c) No Event of Default will occur under this Clause 20.4 if the aggregate amount of Financial Indebtedness falling within paragraphs (a) and (b) of this Clause 20.4 above is less than US$75,000,000 (or its equivalent in any other currency or currencies).

20.5 Insolvency

(a) The Borrower or its Material Subsidiaries falls within any of the events of circumstances set out under article 2 of the Spanish Law 22/2003, dated 9 July on Insolvency ("*Ley Concursal*"); or

(b) the Borrower or its Material Subsidiaries presents a request to be declared insolvent pursuant to Spanish Law 22/2003 dated 9 July (or for foreign Material Subsidiaries, in any other insolvency proceeding that may apply in accordance with the applicable legislation in the relevant jurisdiction) or if such request is made by a third party, it is admitted by judicial order.

20.6 **Insolvency proceedings**

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

(a) a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower or Material Subsidiaries, other than a solvent liquidation or reorganisation of any of the Material Subsidiaries;

(b) the appointment of a liquidator (other than in respect of a solvent liquidation of any of the Material Subsidiaries), receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of the Borrower or Material Subsidiaries or any of their assets;

or any analogous procedure or step is taken in any jurisdiction.

This paragraph shall not apply to any winding-up petition (or equivalent procedure in any jurisdiction) which is frivolous or vexatious and is discharged, stayed or dismissed within 60 days of commencement.

20.7 **Expropriation and sequestration**

Any expropriation or sequestration affects any asset or assets of the Borrower or any Material Subsidiary and has a Material Adverse Effect.

20.8 **Creditors' process and enforcement of Security**

(a) Any Security is enforced against any the Borrower any Material Subsidiary.

(b) Any attachment, distress or execution affects any asset or assets of the Borrower or any Material Subsidiary which is reasonably likely to cause a Material Adverse Effect.

(c) No Event of Default under paragraphs (a) or (b) of this Clause 20.8 above will occur if:

(i) the action is being contested in good faith by appropriate proceedings;

(ii) the principal amount of the indebtedness secured by such Security or in respect of which such attachment, distress or execution is carried out represents less than US$75,000,000 (or its equivalent in any other currency or currencies); and

(iii) the enforcement proceedings, attachment, distress or execution is or are discharged within 60 days of commencement.

20.9 **Failure to comply with judgment**

The Borrower or any Material Subsidiary fails to comply with or pay any sum due from it under any judgment or any order made or given by any court of competent jurisdiction, unless payment of any such sum is suspended pending an appeal.

20.10 **Unlawfulness**

It is or becomes unlawful for the Borrower to perform any of its obligations under the Finance Documents or any Transaction Security created or expressed to be created or evidenced by the Security Documents ceases to be effective, in either case where non-performance is reasonably likely to cause a Material Adverse Effect.

20.11 **Transaction Security**

(a) The Borrower fails to perform or comply with any of the obligations assumed by it in the Security Documents.

(b) At any time any of the Transaction Security is or becomes unlawful or is not, or ceases to be legal, valid, binding or enforceable or otherwise ceases to be effective.

(c) At any time, any of the Transaction Security fails to have first ranking priority or is subject to any prior ranking or *pari passu* ranking Security.

No Event of Default under this Clause 20.11 (*Transaction Security*) will occur if the failure to comply is capable of remedy and is remedied within fifteen (15) calendar days of the Facility Agent giving written notice to the Borrower or the Borrower becoming aware of the failure to comply, whichever is the earlier.

20.12 **Material adverse change**

Any material adverse change arises in the financial condition of the Group taken as a whole, which the Majority Lenders reasonably determine would result in the failure by the Borrower to perform its payment obligations under any of the Finance Documents.

20.13 **Valuation**

The Borrower does not obtain, within a maximum period of 30 days as from the date of this Agreement, a valuation prepared by a mutually acceptable valuation company and addressed to the Borrower for the benefit of the Secured Parties showing a valuation in respect of the Real Property as set out under Clause 19.25 (*Valuation*) above.

20.14 **Transaction Security**

The Borrower fails to comply with the obligation to grant an alternative mortgage security to the Transaction Security upon rejection of the recording of the latter with the relevant Property Registries corresponding to the Charged Properties for any reason whatsoever, in accordance with Clause 19.26 (*Transaction Security*).

20.15 **Acceleration**

On and at any time after the occurrence of an Event of Default which is continuing the Facility Agent may, while such Event of Default is continuing and shall if so directed by the Majority Lenders, by notice to the Borrower:

(a) cancel the Total Commitments whereupon they shall immediately be cancelled;

(b) declare that all or part of the Utilisations, together with accrued interest, and all other amounts accrued under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable;

(c) exercise any or all of its rights, remedies and powers under any of the Finance Documents; and

(d) declare the early termination of this Agreement.

The above shall not affect the individual right of each Lender to accelerate this Agreement in relation to its participation herein if after twenty (20) calendar days from the date on which an Event of Default under Clause 20 (*Event of Default*) has occurred and is continuing, the Majority Lenders have not chosen to carry out the actions set out under paragraphs (a) through (d) above.

Notwithstanding the above, the Lender/s individually accelerating this Agreement shall only be entitled to enforce the Transaction Security with the unanimous consent of the Lenders.

SECTION 9
CHANGES TO PARTIES

21. CHANGES TO THE LENDERS

21.1 Assignments and transfers by the Lenders

Subject to this Clause 21, a Lender (the "**Existing Lender**") may:

(a) assign any of its rights and benefits in respect of any Drawdown; or

(b) transfer any of its rights, benefits and obligations in respect of any Commitment or any Drawdown,

to another bank or financial institution of those referred to in article 2 of Spanish Law 2/1981, dated 25 March, on the Mortgage Market (the " **New Lender**"), **provided that** no Lender may transfer or assign any of its rights, benefits or obligations under the Finance Documents to any U.S. Lender or enter into a sub-participation agreement in respect of such rights, benefits or obligations with a U.S. Lender, and provided that the prior consent of the Borrower has been obtained, except if the New Lender is one of the G12 Lenders, in which case the Borrower's consent shall be understood to be already granted.

21.2 Conditions of assignment or transfer

(a) The Borrower must be notified no later than one Business Day prior to the proposed date of any assignment or transfer pursuant to this Clause 21.1 (*Assignments and transfers by the Lenders*).

(b) An assignment or a transfer will be effective only:

(i) on receipt by the Facility Agent of written confirmation from the New Lender that the New Lender will assume the same obligations to the other Finance Parties and the other Secured Parties as it would have been under if it was a Lender;

(ii) on the satisfaction of the Facility Agent with the results of all " **know your client**" or other checks relating to the identity of any person that it is required by law to carry out in relation to such assignment to a New Lender, the completion of which the Facility Agent shall promptly notify to the Existing Lender and the New Lender; and

(iii) if the procedure set out in Clause 21.5 (*Procedure for transfer or assignment*) is complied with.

(c) If:

(i) a Lender assigns or transfers any of its rights, benefits or obligations under the Finance Documents; and

(ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, the Borrower would be obliged to make a payment to the New Lender under Clause 12 (*Tax Gross-up and Indemnities*) or Clause 13 (*Increased Costs*),

then the New Lender is entitled to receive payment under those Clauses only to the same extent as the Existing Lender would have been if the assignment, transfer or change had not occurred.

(d) In addition to the other assignment rights provided in this Clause 21, each Lender may assign, as collateral or otherwise, any of its rights under this Agreement (including rights to payments of principal or interest on the Utilisations) **provided that** no such assignment shall release the assigning Lender from any of its obligations under this Agreement.

21.3 **Assignment or transfer fee**

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Facility Agent (for its own account) a fee of US$ 2,000.

21.4 **Limitation of responsibility of Existing Lenders**

(a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

(i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents, the Transaction Security or any other documents;

(ii) the financial condition of the Borrower;

(iii) the performance and observance by the Borrower of its obligations under the Finance Documents or any other documents; or

(iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law or regulation are excluded.

(b) Each New Lender confirms to the Existing Lender, and the other Finance Parties that it:

(i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of the Borrower and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and

(ii) will continue to make its own independent appraisal of the creditworthiness of the Borrower and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

(c) Nothing in any Finance Document obliges an Existing Lender to:

(i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause 21; or

(ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by the Borrower of its obligations under the Finance Documents or otherwise.

21.5 **Procedure for transfer or assignment**

(a) Subject to the conditions set out in Clause 21.2 (*Conditions of assignment or transfer*) a transfer or assignment is effected in accordance with paragraph (b) below when the Facility Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate and send a copy to the Borrower.

(b) On the Transfer Date:

(i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer its rights, and obligations under the Finance Documents the Borrower and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the " **Discharged Rights and Obligations**");

(ii) the Borrower and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as the Borrower and the New Lender have assumed and/or acquired the same in place of the Borrower and the Existing Lender;

(iii) the Facility Agent, the New Lender and the other Lenders, shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been a Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Facility Agent and the Existing Lender shall each be released from further obligations to each other under the Finance Documents;

(iv) the Existing Lender and the New Lender shall execute before a notary a public deed (*escritura pública*) in which the assignment or transfer is documented, filing this with the relevant Property Registries; and

(v) the New Lender shall become a Party as a "**Lender**".

21.6 **Copy of Transfer Certificate to the Borrower**

The Facility Agent shall, as soon as reasonably practicable after it has received a Transfer Certificate, send to the Borrower a copy of that Transfer Certificate.

21.7 **Disclosure of information**

(a) Any Lender may disclose to any of its affiliates and any other person:

(i) to (or through) whom that Lender assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under the Finance Documents;

(ii) with (or through) whom that Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, the Finance Documents; or

(iii) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation,

any information about the Borrower, the Group and the Finance Documents as that Lender shall consider appropriate **provided that** (in the case of paragraphs (i) and (ii) only) the person to whom the information is to be given has entered into a Confidentiality Undertaking.

(b) Any Lender may also disclose the size and term of the Bridge Facility and the name of the Borrower to any investor or a potential investor in a securitisation (or similar transaction of broadly equivalent economic effect) of that Lender's rights or obligations under the Finance Documents **provided that** the person to whom the information is to be given has entered into a Confidentiality Undertaking.

21.8 **Interest**

All interest accrued in the Interest Period in which a transfer is effective shall be paid to the Existing Lender.

22. **CHANGES TO THE BORROWER**

The Borrower may not assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

SECTION 10
THE FINANCE PARTIES

23. ROLE OF THE FACILITY AGENT

23.1 Appointment of the Facility Agent

(a) Each of the Lenders appoints the Facility Agent to act as its agent under and in connection with the Finance Documents.

(b) Each of the Lenders authorises the Facility Agent to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

23.2 Duties of the Facility Agent

(a) The Facility Agent shall promptly forward to a Party the original or a copy of any document (including, but not limited to, the Borrower's annual financial statements) which is delivered to the Facility Agent for that Party by any other Party.

(b) The Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(c) If the Facility Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.

(d) If the Facility Agent is aware of the non-payment of any principal, interest or fee payable to a Finance Party (other than the Facility Agent) under this Agreement it shall promptly notify the other Finance Parties.

(e) The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

23.3 No fiduciary duties

(a) Nothing in this Agreement constitutes the Facility Agent as a trustee or fiduciary of any other person.

(b) The Facility Agent shall not be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

23.4 Business with the Group

The Facility Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

23.5 Rights and discretions

(a) The Facility Agent may rely on:

(i) any representation, notice or document (including, for the avoidance of doubt, any representation, notice or document communicating the consent of the Majority Lenders pursuant to Clause 33.1 (*Required consents*)) believed by it to be genuine, correct and appropriately authorised; and

(ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

(b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:

(i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 20.1 (*Non-payment*));

(ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and

(iii) any notice or request made by the Borrower (other than a Drawdown Request) is made on behalf of and with the consent and knowledge of the Borrower.

(c) The Facility Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.

(d) The Facility Agent may act in relation to the Finance Documents through its personnel and agents.

(e) The Facility Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.

(f) Notwithstanding any other provision of any Finance Document to the contrary, the Facility Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law and regulation or a breach of a fiduciary duty or duty of confidentiality.

23.6 **Majority Lenders' instructions**

(a) Unless a contrary indication appears in a Finance Document, the Facility Agent shall (i) exercise any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by the Majority Lenders (or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders.

(b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders will be binding on all the Finance Parties.

(c) The Facility Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders) until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.

(d) In the absence of instructions from the Majority Lenders, (or, if appropriate, the Lenders) the Facility Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.

(e) The Facility Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.

23.7 **Responsibility for documentation**

The Facility Agent:

(a) is not responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Facility Agent, the Borrower or any other person given in or in connection with any Finance Document; or

(b) is not responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document or the Transaction Security.

23.8 **Exclusion of liability**

(a) Without limiting paragraph (b) below, the Facility Agent will not be liable for any action taken by it under or in connection with any Finance Document or the Transaction Security, unless directly caused by its gross negligence or wilful misconduct or wilful breach of any Finance Document.

(b) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document.

(c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.

(d) Nothing in this Agreement shall oblige the Facility Agent to carry out any checks pursuant to any laws or regulations relating to money laundering in relation to any person on behalf of any Lender and each Lender confirms to the Facility Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Facility Agent.

23.9 **Lenders' indemnity to the Facility Agent**

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by the Borrower pursuant to a Finance Document).

23.10 **Resignation of the Facility Agent**

(a) The Facility Agent may resign and appoint one of its affiliates acting through an office in the European Union as successor by giving notice to the other Finance Parties and the Borrower.

(b) Alternatively the Facility Agent may resign by giving notice to the other Finance Parties and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Facility Agent.

(c) If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the Facility Agent (after consultation with the Borrower) may appoint a successor Facility Agent (acting through an office in the European Union).

(d) The retiring Facility Agent shall, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.

(e) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.

(f) Upon the appointment and acceptance of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 23.10. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

(g) After consultation with the Borrower, the Majority Lenders may, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) above. In this event, the Facility Agent shall resign in accordance with paragraph (b) above.

23.11 **Confidentiality**

(a) In acting as agent for the Finance Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by another division or department of the Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.

(c) Notwithstanding any other provision of any Finance Document to the contrary, the Facility Agent is not obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

23.12 **Relationship with the Lenders**

The Facility Agent may treat each Lender as a Lender, entitled to payments under this Agreement unless it has received not less than five Business Days prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

23.13 **Credit appraisal by the Finance Parties**

Without affecting the responsibility of the Borrower for information supplied by it or on its behalf in connection with any Finance Document, each Finance Party confirms to the Facility Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

(a) the financial condition, status and nature of each member of the Group;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;

(c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

(d) the adequacy, accuracy and/or completeness of any information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and

(e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

23.14 **Reference Banks**

If a Reference Bank (or an affiliate of a Reference Bank) becomes a Lender, the Facility Agent shall (in consultation with the Borrower) appoint another Reference Bank that is not a Lender or an affiliate of a Lender. In the event that any of the Reference Banks takes part in a merger, is wound up or ceases to exist for any reason, as well as if for any circumstance it acquires the status of Lender under this Agreement, the Facility Agent will designate the entity that must occupy the place of the former, communicating such appointment to the Lenders and to the Borrower as soon as possible.

23.15 **Deduction from amounts payable by the Facility Agent**

If any Party owes an amount to the Facility Agent under the Finance Documents, the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

24. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

(a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;

(b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or

(c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax (but without prejudice to the terms of Clause 12.3 (*Tax indemnity*)).

25. SHARING AMONG THE FINANCE PARTIES

25.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from the Borrower other than in accordance with Clause 26 (*Payment Mechanics*) (whether by way of set-off or otherwise) and applies that amount to a payment due under the Finance Documents then:

(a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Facility Agent;

(b) the Facility Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with Clause 26 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and

(c) the Recovering Finance Party shall, within three Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 26.5 (*Partial payments*).

25.2 Redistribution of payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the Borrower and distribute it between the Finance Parties (other than the Recovering Finance Party) in accordance with Clause 26.5 (*Partial payments)*.

25.3 Recovering Finance Party's rights

(a) On a distribution by the Facility Agent under Clause 25.2 (*Redistribution of payments*), the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in the redistribution.

(b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the Borrower shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

25.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

(a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 25.2 (*Redistribution of payments*) shall, upon request of the Facility Agent, pay to the Facility Agent for account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay); and

(b) that Recovering Finance Party's rights of subrogation in respect of any reimbursement shall be cancelled and the Borrower will be liable to the reimbursing Finance Party for the amount so reimbursed.

25.5 **Exceptions**

(a) This Clause 25 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause 25, have a valid and enforceable claim against the Borrower.

(b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

(i) it notified that other Finance Party of the legal or arbitration proceedings; and

(ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

SECTION 11
ADMINISTRATION

26. PAYMENT MECHANICS

26.1 Payments to the Facility Agent

(a) On each date on which the Borrower or a Lender is required to make a payment under a Finance Document, the Borrower or Lender shall make the same available to the Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payments by the Borrower or Lenders shall be made to such account as the Facility Agent specifies.

26.2 Distributions by the Facility Agent

Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to Clause 26.3 (*Distributions to a Borrower*), Clause 26.4 (*Clawback*) and Clause 23.15 (*Deduction from amounts payable by the Facility Agent)* be made available by the Facility Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its office), to such account as that Party may notify to the Facility Agent by not less than five Business Days' notice.

26.3 Distributions to a Borrower

The Facility Agent may (with the consent of the Borrower or in accordance with Clause 27 (*Set-Off*)) apply any amount received by it for the Borrower in or towards payment (on the date and in the currency and funds of receipt) of any amount due from the Borrower under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

26.4 Clawback

(a) Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

(b) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

26.5 **Partial payments**

(a) If the Facility Agent receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under the Finance Documents, the Facility Agent shall apply that payment towards the obligations of the Borrower under the Finance Documents in the following order:

(i) first, in or towards payment *pro rata* of any unpaid fees, costs and expenses of the Facility Agent (including of any Receiver or Delegate) under the Finance Documents;

(ii) secondly, in or towards payment *pro rata* of any accrued interest, fee or commission due but unpaid under this Agreement;

(iii) thirdly, in or towards payment *pro rata* of any principal due but unpaid under this Agreement; and

(iv) fourthly, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.

(b) The Lenders hereby expressly agree that the Facility Agent shall not apply any amount received in accordance with paragraph (a) above to discharge the obligations of the Borrower owed to a Lender if such partial payment received by the Facility Agent is as a result of that Lender being considered as a subordinated creditor by operation of any insolvency law.

26.6 **No set-off by the Borrower**

All payments to be made by the Borrower under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

26.7 **Business Days**

(a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or an Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

26.8 **Currency of account**

(a) Subject to paragraphs (b) to (f) below, US Dollars is the currency of account and currency of payment for any sum due from the Borrower under this Agreement and any Fee Letter.

(b) A repayment of a Drawdown or Unpaid Sum or a part of a Drawdown or Unpaid Sum shall be made in the currency in which that Drawdown or Unpaid Sum is denominated on its due date.

(c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

(d) Unless otherwise provided in this Agreement or any other Finance Document, any amount (including fees) payable in respect of the Bridge Facility shall be paid in US Dollars.

(e) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

(f) Any amount expressed to be payable in a currency other than US Dollars shall be paid in that other currency.

26.9 **Change of currency**

(a) Unless otherwise prohibited by law or regulation, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (after consultation with the Borrower); and

(ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other rounded up or down by the Facility Agent (acting reasonably).

(b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

27. SET-OFF

A Finance Party may set off any matured obligation due from the Borrower under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

28. NOTICES

28.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter or (in accordance with Clause 28.5 (*Electronic communication*)) by email.

28.2 **Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

(a) in the case of the Borrower, that identified with its name below;

(b) in the case of each Lender, that notified in writing to the Facility Agent on or prior to the date on which it becomes a Party; and

(c) in the case of the Facility Agent, that identified with its name below,

or any substitute address or fax number or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five Business Days' notice.

28.3 **Delivery**

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(i) if by way of fax, when received in legible form; or

(ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

(iii) and, if a particular department or officer is specified as part of its address details provided under Clause 28.2 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Facility Agent will be effective only when actually received by the Facility Agent and then only if it is expressly marked for the attention of the department or officer identified with the Facility Agent's signature below (or any substitute department or officer as the Facility Agent shall specify for this purpose).

(c) All notices from or to the Borrower shall be sent through the Facility Agent.

(d) Any communication or document made or delivered to the Borrower in accordance with this Clause 28 will be deemed to have been made or delivered to the Borrower.

(e) Any notice delivered in accordance with this Clause 28 after 4 p.m. local time in the place of delivery on a given day shall be deemed to have been received on the next Business Day after such day.

28.4 **Notification of address and fax number**

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to Clause 28.2 (*Addresses*) or changing its own address or fax number, the Facility Agent shall notify the other Parties.

28.5 **Electronic communication**

(a) Any communication to be made between the Facility Agent and a Lender and/or the Borrower under or in connection with the Finance Documents may be made by electronic mail or other electronic means, if the Facility Agent and the relevant Lender and/or the Borrower:

(i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;

(ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

(iii) notify each other of any change to their address or any other such information supplied by them.

(b) Any electronic communication made between the Facility Agent and a Lender and/or the Borrower will be effective only when actually received in readable form and in the case of any electronic communication made by a Lender and/or the Borrower to the Facility Agent only if it is addressed in such a manner as the Facility Agent shall specify for this purpose.

29. FACILITY ACCOUNT

29.1 Facility Agent's account

The Agent, acting in such capacity, will open and carry in its books one special account in the name of Cemex España, where the Agent shall debit the amount of principal, ordinary interest, commissions, fees, costs, indemnity interest, additional costs and other sums owed by Cemex España, by virtue of this Agreement, and will pay into the account all sums received by the Agent to pay the amounts owed by Cemex España as a consequence of the same, so that the balance of such account reflect at all times the amount owed by Cemex España by virtue of this Agreement.

By this way, the liquid balance owed by the Borrowers to each and every one of the Lenders in relation to the Bridge Facility will be settled at all times and in accordance with that provided for in this Agreement.

29.2 Account of each of the Lenders

In addition to the unified account mentioned in Clause 29.1 above, each of the Lenders will open and keep in its books a special account equivalent to the one described in Clause 29.1, where the relevant Lender will reflect the amounts owed to the same by Cemex España because of this Agreement, as well as the ones paid to the former by the latter, so that the balance of the mentioned account reflect at any given time the sums owed by Cemex España to the relevant Lender by virtue of this Agreement.

29.3 It is expressly agreed that the balances shown on the accounts referred to in Clauses 29.1 *(Facility Agent's account*) and/or 29.2 (*Account of each of the Lenders*), duly certified by the Agent or by the relevant Lender, shall be admissible as evidence in legal proceedings, in the absence of error, in accordance with that expressly agreed in Clause 30 (*Calculations and Certificates*).

30. CALCULATIONS AND CERTIFICATES

30.1 Spanish Civil Procedure

(a) In the event that the Bridge Facility is declared totally or partially due and an Unpaid Sum exists, the Facility Agent or, as the case may be, the Lender independently bringing the action pursuant to Clause 20.15 of this Agreement, will settle the accounts mentioned in Clauses 29.1 (*Facility Agent's account*) and/or 29.2 (*Account of each of the Lenders*) it being expressly agreed that, for the purposes of payment and dispatch of enforcement, or for the purposes of judicial or non-judicial claims, the balance resulting from such accounts, duly certified by the Facility Agent or by the Lender separately exercising the action, will be a due and payable amount, which may be used as evidence in judicial proceedings and will have full legal effect.

(b) For the purposes of the provisions of Section 572 of the Civil Procedure Act, the parties expressly agree that, enforcement may be made against the Borrower for the amount resulting from the settlement made by the Facility Agent or by the relevant Lenders in the manner agreed by the parties to this Agreement, serving prior notice to the Borrower of the amount resulting from the settlement. In order to bring the enforcement action, the Facility Agent or the relevant Lenders shall submit this Agreement in a self-executory document as well as the certificate issued by the Facility Agent or the relevant Lender setting out the balance resulting from the settlement made and a notarial statement of the debit and credit items and those relating to the application of interest, attaching to the same the certified document evidencing that the settlement was made in the manner agreed in this Agreement.

(c) The settlement set out in the above paragraphs shall include all the concepts or some of them, following the Section 573.3 of the Civil Procedure Act, without implying any waiver to any amount owed by the Borrower by virtue of this Agreement.

(d) Without prejudice to Clause 14.1 (*Currency Indemnity*) above, for the purpose of enforcement procedures, any translation from US Dollars into Euros shall be at the official rate of exchange recognised by the European Central Bank (Euro foreign exchange reference rate) for the conversion of US Dollars into Euros.

30.2 Certificates and Determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

30.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

30.4 **No personal liability**

If an individual signs a certificate on behalf of the Borrower or any other member of the Group and the certificate proves to be incorrect, the individual will incur no personal liability as a result, unless the individual acted fraudulently in giving the certificate. In this case any liability of the individual will be determined in accordance with applicable law.

31. PARTIAL INVALIDITY

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the laws or regulations of any other jurisdiction will in any way be affected or impaired.

32. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Secured Party or Finance Party, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law or regulation.

33. AMENDMENTS AND WAIVERS

33.1 **Required consents**

(a) Any term of the Finance Documents may be amended only with the consent of a Qualified Majority Lenders and the Borrower and any such amendment will be binding on all Parties.

(b) Subject to Clause 33.2 (*Exceptions*), any term of the Finance Documents may be waived only with the consent of the Majority Lenders and the Borrower and any such waiver will be binding on all Parties, including on any Lender voting against such waiver.

33.2 **Exceptions**

(a) A waiver or amendment that has the effect of changing or which relates to:

(i) the definition of "**Majority Lenders**" in Clause 1.1 *(Definitions)*;

(ii) an extension to the Availability Period or to the date of any scheduled payment of any amount under the Finance Documents;

(iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;

(iv) a change in currency of payment of any amount under the Finance Documents;

(v) an increase in or an extension of any Commitment;

(vi) a change to the Borrower;

(vii) any provision which expressly requires the consent of all the Lenders;

(viii) Clause 2.4 (*Finance Parties' rights and obligations)*, Clause 21 (*Changes to the Lenders*), Clause 22 (*Changes to the Borrower*) (save to the extent a provision of Clause 22 refers only to requiring the approval of the Majority Lenders) or this Clause 33;

(ix) the nature or scope of the Charged Property or the manner in which the proceeds of enforcement of the Transaction Security are distributed; or

(x) the Conditions Precedent set out under Schedule 1 hereto,

shall not be made without the prior consent of all the Lenders.

(b) A waiver which relates to the rights or obligations of the Facility Agent, may not be effected without the consent of the Facility Agent at such time.

SECTION 12
GOVERNING LAW AND ENFORCEMENT

34. GOVERNING LAW

This Agreement and all non-contractual obligations arising from or connected with it are governed by Spanish law.

35. ENFORCEMENT

35.1 Jurisdiction of Spanish Courts

(a) Without prejudice to the enforcement of the Transaction Security in the courts corresponding to the place where any of the Charged Property is located, the Parties agree that the courts of Madrid (capital) have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to non-contractual obligations arising from or in connection with this Agreement or a dispute regarding the existence, validity or termination of this Agreement) (a "**Dispute**").

(b) The Parties agree that the courts of Madrid (capital) are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) This Clause 35.1 is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law or regulation, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

36. SUMMARY OF THE AGREEMENT

A summary of this Agreement has been elaborated in order to be incorporated as annex to the Transaction Security and to be filed with the Property Registries corresponding to the Charged Property (the "**Summary**"). The Parties acknowledge that, to the bests of their knowledge, the Summary accurately reflects the main terms of this Agreement. Nonetheless, the Parties agree that the terms and conditions of this Agreement shall prevail with regard to those aspects not foreseen under the Summary and/or those aspects set out under the Summary that may not be consistent with this Agreement. In addition, the Parties agree that any of them may at any time request a sworn translation of this Agreement and carry out the necessary actions in order for it to be registered with the relevant Property Registries, the cost of which shall be borne by the Borrower. The Parties undertake to cooperate amongst themselves in order to facilitate the translation and the entry into the relevant Property Registries.

CEMEX ESPAÑA, S.A.

By Proxy

/s/ Juan Pelegrí y Girón

Mr. Juan Pelegrí y Girón

BANCO SANTANDER, S.A.

By Proxy

/s/ José Manuel Colomes Montañés

Mr. José Manuel Colomes Montañés

/s/ Juan de la Hera Salvador

Mr. Juan de la Hera Salvador

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.

By Proxy

/s/ José Garcia Casteleiro

Mr. José Garcia Casteleiro

/s/ José María de Miguel Jiménez

Mr. José María de Miguel Jiménez

SCHEDULE 1
CONDITIONS PRECEDENT

Part I
Conditions Precedent to Initial Drawdown

1. **The Borrower**

(dd) A copy of the current constitutional documents, including by-laws of Cemex España, certified by the Secretary of the Board of Directors.

(ee) A power of attorney granting a specific individual or individuals sufficient power to sign the Finance Documents on behalf of the Borrower or a certificate of the resolution of the board of directors of the Borrower issued by the Secretary of the Board of Directors;

(i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;

(ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and

(iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Drawdown Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.

(ff) The Lenders have no knowledge of any petition for an insolvency proceeding of the Borrower.

2. **Finance Documents**

(a) This Agreement executed by the parties hereto.

(b) Any Fee Letter.

(c) The Security Documents executed by the parties thereto, duly filed with the relevant Property Registries corresponding to the Charged Property, as evidenced in a manner satisfactory to the Lenders. The electronic submission by the Notary of the Security Documents (p *resentación telemática*) will be considered as a due filing.

3. **Real Property**

The results of property registry searches for each Real Property dated no earlier than seven (7) days prior to the First Drawdown Date showing the Borrower title to the Real Property and no existing Security over that Real Property.

4. **Other Documents and Evidence**

The Original Financial Statements of the Borrower and the semi annual unaudited consolidated financial statements of Cemex España for the half year ended 30 June 2008.

Part II
Conditions Precedent Required to be delivered for subsequent Drawdowns

(gg) Evidence that form of a conditional waiver and deferral agreement or another agreement with equivalent effects has been entered into, among others, between the G12 Lenders, Cemex Parent, Cemex España and other companies of the Cemex Group.

(hh) Evidence that there has been no acceleration nor there is any inminent or potential acceleration of any liabilities of Cemex España Finance LLC under the US Private Placement.

(ii) Evidence that US$ 200,000,000 of additional Financial Indebtedness has been made available to the Cemex Parent or the Borrower or any member of the Cemex Group.

(jj) Evidence that discussions with the G12 Lenders are advancing positively with a view to the granting of a liquidity facility in an amount sufficient to cover any liquidity needs of Cemex Group.

(kk) Evidence that the Transaction Security has been duly recorded at the relevant Property Registries corresponding to the Charged Properties.

(ll) A copy of form PE-1 stamped by the Bank of Spain (Banco de España), whereby it assigns a Financial Operation Number (" **NOF**") in relation to this Agreement if legally necessary.

(g) The Lenders have no knowledge of any petition for an insolvency proceeding of the Borrower.

SCHEDULE 2
REQUESTS

Part I
Drawdown Request

From: [*the Borrower*]

To: [*Agent*]

Dated:

Dear Sirs

CEMEX – US$ 200,000,000 Secured Bridge Facility Agreement
dated [●] (the "Bridge Facility Agreement")

1. We refer to the Bridge Facility Agreement. This is a Drawdown Request. Terms defined in the Bridge Facility Agreement have the same meaning in this Drawdown Request unless given a different meaning in this Drawdown Request.
2. We wish to borrow a Utilisation under the Bridge Facility on the following terms:

(a)	Proposed Drawdown Date:	[·] (or, if that is not a Business Day, the next Business Day)
(b)	Borrower:	[·]
(c)	Currency of Utilisation:	US$
(d)	Amount:	[·] or, if less, the Available Bridge Facility
(e)	Interest Period:	[·]

3. We confirm that, to the extent applicable, each condition specified in [Clause 4.1 (*Inital Conditions Precedent)* / Clause 4.2 (*Further conditions precedent*)] is satisfied or waived on the date of this Drawdown Request.
4. The proceeds of each Utilisation should be credited to the relevant accounts as follows:

   [ ].
5. This Drawdown Request is irrevocable.
6. Terms used in this Drawdown Request which are not defined in this Drawdown Request but are defined in the Bridge Facility Agreement shall have the meaning given to those terms in the Bridge Facility Agreement.

Yours faithfully

_____

authorised signatory for

[the Borrower]

Part II
Selection Notice

From: *CEMEX España, S.A.*

To: [*Agent*]

Dated:

Dear Sirs

CEMEX – US$ 200,000,000 Secured Bridge Facility Agreement
dated [●] (the "Bridge Facility Agreement")

7. We refer to the Bridge Facility Agreement. This is a Selection Notice. Terms defined in the Bridge Facility Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.

8. We refer to the following Utilisation[s] with an Interest Period ending on [ ]*.

   We request that the next Interest Period for the above Utilisation[s] is [ ]].**

9. This Selection Notice is irrevocable.

Yours faithfully

_____

authorised signatory for

Cemex España, S.A.

NOTES:
* Insert details of all Term Utilisations for the Bridge Facility which have an Interest Period ending on the same date.
** Use this option if sub-division is not required.

SCHEDULE 3
FORM OF TRANSFER CERTIFICATE

To: [Agent]

Cemex España, S.A.

From: [The Existing Lender] (the "**Existing Lender**") and [The New Lender] (the "**New Lender**")

Dated:

CEMEX – US$ 200,000,000 Secured Bridge Facility Agreement
dated [●] (the "Bridge Facility Agreement")

10. We refer to the Bridge Facility Agreement. This is a Transfer Certificate. Terms defined in the Bridge Facility Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.

11. We refer to Clause 21.5 (*Procedure for transfer or assignment*):

    (mm) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender all or part of the Existing Lender's Commitment, rights and obligations referred to in the schedule to this certificate in accordance with Clause 21.5 (*Procedure for transfer or assignment*).

    (nn) The proposed Transfer Date is [●].

    (oo) The office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 28.2 (*Addresses*) are set out in the schedule to this certificate.

12. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 21.4 (*Limitation of responsibility of Existing Lenders*).

13. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.

14. We confirm that we have carried out and are satisfied with the results of all compliance checks we consider necessary in relation to our participation in the Bridge Facility.

15. The New Lender confirms that it is not a U.S. Lender (and has not entered into a sub-participation agreement with a U.S. Lender in respect of the Commitment to be transferred pursuant hereto).

16. The New Lender confirms, for the benefit of the Facility Agent and the Borrower, that it is:

    (pp) [a Qualifying Lender];

    (qq) [not a Qualifying Lender];

    (rr) [a G12 Lender].

17. This Transfer Certificate is governed by Spanish law.

THE SCHEDULE

Commitment/rights and obligations to be transferred

[*insert relevant details*]

[*office address, email, fax number and attention details for notices and account details for payments,*]

[Existing Lender] [New Lender]

By: By:

This Transfer Certificate is accepted by the Facility Agent and the Transfer Date is confirmed as [•].

[Agent]

By:

According to Clause 21.5(b)(iv) of the Facility Agreement, the Existing Lender and the New Lender shall execute before a notary a public deed (escritura pública) in which the assignment or transfer is documented, filing this with the relevant Property Registries.

SCHEDULE 4
FORM OF CONFIDENTIALITY UNDERTAKING

[Letterhead of Existing Bank]

To:

[insert name of Potential Lender]

Re: **The Bridge Facility**

Borrower: Cemex España, S.A. and Cemex [ ] (the

"**Borrower**") ***Date:***

Amount: US$ [ ]

Agent:

Dear Sirs

We understand that you are considering participating in the Bridge Facility. In consideration of us agreeing to make available to you certain information, by your signature of a copy of this letter you agree as follows:

18. *Confidentiality Undertaking*: You undertake:

(ss) to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by paragraph 2 below and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information;

(tt) to keep confidential and not disclose to anyone except as provided for by paragraph 2 below the fact that the Confidential Information has been made available or that discussions or negotiations are taking place or have taken place between us in connection with the Bridge Facility;

(uu) to use the Confidential Information only for the Permitted Purpose;

(vv) to use all reasonable endeavours to ensure that any person to whom you pass any Confidential Information (unless disclosed under paragraph 2(b) below) acknowledges and complies with the provisions of this letter as if that person were also a party to it; and

(ww) not to make enquiries of any member of the Group or any of their officers, directors, employees or professional advisers relating directly or indirectly to the Bridge Facility.

19. *Permitted Disclosure*: We agree that you may disclose such Confidential Information and such of those matters referred to in paragraph 1(b) above to the extent necessary for the Permitted Purpose:

(xx) to members of the Participant Group and their officers, directors, employees, professional advisers and auditors if any person to whom the Confidential Information is to be given pursuant to this paragraph 2(a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information, except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

(yy) in the event that you become a Lender under the Bridge Facility Agreement, in accordance with and subject to the terms of clause 21 of the Bridge Facility Agreement;

(zz) to any person to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation; or

(aaa) with the prior written consent of us and the Borrower.

20. *Notification of Disclosure*: You agree (to the extent permitted by law and regulation) to inform us:

(bbb) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph 2(c) above except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

(ccc) upon becoming aware that Confidential Information has been disclosed in breach of this letter.

21. *Return of Copies*: If we so request in writing, you shall return all Confidential Information supplied to you by us and destroy or permanently erase (to the extent technically practicable) all copies of Confidential Information made by you and use all reasonable endeavours to ensure that anyone to whom you have supplied any Confidential Information destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy, or where the Confidential Information has been disclosed under paragraph 2(c) above.

22. *Continuing Obligations*: The obligations in this letter are continuing and, in particular, shall survive the termination of any discussions or negotiations between you and us. Notwithstanding the previous sentence, the obligations in this letter shall cease on the earlier of

(a) the date on which you become a party to the Bridge Facility Agreement or (b) twelve months after the date at which you have returned all Confidential Information supplied by us to you and destroyed or permanently erased (to the extent technically practicable) all copies of Confidential Information made by you (other than any such Confidential Information or copies which have been disclosed under paragraph 2 above (other than paragraph 2(a)) or which, pursuant to paragraph 4 above, are not required to be returned or destroyed.

23. *No Representation; Consequences of Breach, etc*: You acknowledge and agree that:

(ddd) neither we nor any member of the Group nor any of our or their respective officers, employees or advisers (each a " **Relevant Person**") (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by us or any member of the Group or the assumptions on which it is based or (ii) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or any member of the Group or be otherwise liable to you or any other person in respect of the Confidential Information or any such information; and

(eee) we or members of the Group may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person or member of the Group may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

24. *Entire Agreement*: This letter constitutes the entire agreement between us in relation to your obligations regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

25. *No Waiver*: No failure or delay in exercising any right or remedy under this letter will operate as a waiver thereof nor will any single or partial exercise of any right or remedy preclude any further exercise thereof or the exercise of any other right or remedy under this letter.

26. *Amendments, etc*: The terms of this letter and your obligations under this letter may only be amended or modified by written agreement between us.

27. *Inside Information*: You acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and you undertake not to use any Confidential Information for any unlawful purpose.

28. *Nature of Undertakings*: The undertakings given by you under this letter are given to us and (without implying any fiduciary obligations on our part) are also given for the benefit of the Borrower and each other member of the Group.

29. *Third party rights*: Subject to this paragraph 12 and to paragraphs 6 and 9, a person who is not a party to this letter has no right to enforce or to enjoy the benefit of any term of this letter.

(fff) The Relevant Persons and each member of the Group may enjoy the benefit of the terms of paragraphs 6 and 9 subject to and in accordance with this paragraph 12.

(ggg) Notwithstanding any provisions of this letter, the parties to this letter do not require the consent of any Relevant Person or any member of the Group to rescind or vary this letter at any time.

30. *Governing Law and Jurisdiction*:

(hhh) This letter (including the agreement constituted by your acknowledgement of its terms) and all non-contractual obligations arising from or connected with it are governed by and shall be construed in accordance with Spanish law.

(iii) The parties submit to the non-exclusive jurisdiction of the courts of Spain and the venue of Madrid (capital).

31. *Definitions*: In this letter (including the acknowledgement set out below):

"**Bridge Facility Agreement**" means the bridge facility agreement entered into or to be entered into in relation to the Bridge Facility.

"**Confidential Information**" means all information relating to the Borrower, the Group, the Finance Documents and/or the Bridge Facility which is provided to you in relation to the Finance Documents or Bridge Facility by us or any of our affiliates or advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

(jjj) is or becomes public information other than as a direct or indirect result of any breach of this letter;

(kkk) is identified in writing at the time of delivery as non-confidential by us or our advisers; or

(lll) is known by you before the date the information is disclosed to you by us or any of our affiliates or advisers or is lawfully obtained by you after that date, from a source which is, as far as you are aware, unconnected with the Group and which, in either case, as far as you are aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

"**Finance Documents**" means the documents defined in the Bridge Facility Agreement as Finance Documents.

"**Group**" means Cemex Parent and each of its Subsidiaries from time to time.

"**Borrower**" means a borrower under the Bridge Facility Agreement.

"**Participant Group**" means you, each of your holding companies and subsidiaries and each subsidiary of each of your holding companies (as each such term is defined in the Companies Act 2006).

"**Permitted Purpose**" means considering and evaluating whether to enter into the Bridge Facility.

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

_____

For and on behalf of

[***Existing Bank***]

To: [***Existing Bank***]
The Borrower and each other member of the Group

We acknowledge and agree to the above:

_____

For and on behalf of
[***Potential Lender***]

SCHEDULE 5
EXISTING SECURITY

Borrowers	Lender	Security	Total Principal Amount of Indebtedness Secured as of 30 September 2008 (millions of euro based on exchange rate of €1/US$1.433)
CEMEX, Inc.	Hampton	Land related with the Promissory Note	0.03
RMC Beton Šląsk Sp. z o.o.	SG Equipment Leasing Polska Sp. z.o.o.	Plant Equipment	1.61
CEMEX BETONS CENTRE et BRETAGNE	CITICAPITAL	Equipment related with the credit	0.01
CEMEX GRANULATS RHONE-MEDITERRANEE	SLIBAIL IMMOBILIER	Equipment related with the credit	0.56
CEMEX BETONS NORD QUEST	SLIBAIL IMMOBILIER	Equipment related with the credit	0.10
ETABLISSEMENT CHARROY	BAIL ACTEA	Equipment related with the credit	0.04
Cemex SIA	Disko Leasing GmbH	Truck finance lease	0.00
Transbeton Lieferbeton Gesellschaft m.b.H.	Raiffeisenbank Bruck an der Mur eg. Gen.	Equipment related with the credit	2.29
Quarzsandwerk Wellmersdorf GmbH & Co. KG	Raiffeisenbank Obermain Nord eG	Land related with the credit	0.03
CEMEX Kies Hamburg GmbH & Co. KG	Kreissparkasse Herzogfum Lauenburg	Land related with the credit	0.21
Cemex UK Operations Limited	ING Lease (UK) Limited	Equipment related with the credit	14.89
Cemex UK Operations Limited	Lloyds TSB Asset Finance	Equipment related with the credit	2.77
RMC Beton Šląsk Sp. z o.o.	Bankowy Fundusz Leasingowy S.A.	Plant Equipment	0.01
Denis Tarrant & Sons Limited	National Irish Asset Finance Limited	Plant Equipment	0.98
TOTAL			23.50

SCHEDULE 6

MATERIAL SUBSIDIARIES

As of September 30, 2008

CEMEX, Inc

CEMEX Construction Materials Pacific LLC

CEMEX Materials, LLC

CEMEX UK Operations Limited

CEMEX Deutschland AG

CEMEX Investment Limited

CEMEX France Gestion

SCHEDULE 7
EXISTING FINANCIAL INDEBTEDNESS

As of 30 September 2008

€ millions
FX rate $/€: 1.4075

BORROWER	INSTRUMENT	OUTSTANDING AMOUNT (€ million)	FINAL MATURITY
CEMEX UK	Loan Notes	9.85	Dec' 2009
	SUBTOTAL	**9.85**	
	Bond Issues	121.02	Jul' 2025
	SBLC T.E. Bonds*	30.82	Feb' 2013 to Mar' 2025
CEMEX, INC.	LT debt with credit entities	139.43	Mar' 2010 & Apr' 2011
	ST debt with credit entities	312.37	Dec' 2008 to Apr' 2009
	SUBTOTAL	**603.63**	
	Loan Notes	2.18	
	LT debt with credit entities	11.96	Between 2008 - 2014
CEMEX INVESTMENTS LIMITED	ST debt with credit entities	26.07	
	Other Debt	5.13	
	SUBTOTAL	**45.33**	
PUERTO RICAN CEMENT COMPANY	Credit Line (US$30mm)	21.35	Aug' 2009
	SUBTOTAL	**21.35**	
CONSTRUCTION FOUNDING CORPORATION	Debt with credit entities	58.80	Feb' 2009
	SUBTOTAL	**58.80**	
	Debt with credit entities	3.82	
CEMEX FRANCE GESTION	Debt with Group & Associated Companies	4.26	Between 2008 - 2013
	Other Debt	2.64	
	SUBTOTAL	**10.71**	
	Debt with Group & Associated Companies	0.36	
OTHER COMPANIES	ST debt with credit entities	30.16	—
	Other	2.27	
	SUBTOTAL	**32.78**	
	TOTAL	**782.46**	

* Stand by letters of credit over tax-exempt bonds. Maturities shown correspond to these bonds.

SBLC renewed on an annual basis.

SCHEDULE 8
PROCEEDINGS PENDING OR THREATENED

As of 31 December 2008

32. **Environmental Matters**

United States

As of 31 December 2008, CEMEX, Inc. and its subsidiaries had accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately U.S.$43 million. The environmental matters relate to (i) the disposal of various materials, in accordance with past industry practice, which might be categorized as hazardous substances or wastes, and (ii) the cleanup of sites used or operated by CEMEX, Inc., including discontinued operations, regarding the disposal of hazardous substances or wastes, either individually or jointly with other parties. Most of the proceedings are in the preliminary stage, and a final resolution might take several years. For purposes of recording the provision, CEMEX, Inc. considers that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. The ultimate cost that might be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work, and negotiations with or litigation against potential sources of recovery have been completed.

CEMEX Construction Materials Florida, LLC f/k/a Rinker Materials of Florida, Inc. (" **CEMEX Florida**"), a subsidiary of CEMEX, Inc., holds one federal quarry permit and is the beneficiary of one of 10 other federal quarrying permits granted for the Lake Belt area in South Florida. The permit held by CEMEX Florida covers CEMEX Florida's SCL and FEC quarries. CEMEX Florida's Krome quarry is operated under one of the other federal quarry permits. The FEC quarry is the largest of CEMEX Floridas' quarries measured by volume of aggregates mined and sold. CEMEX Florida's Miami cement mill is located at the SCL quarry and is supplied by that quarry. A ruling was issued on 22 March 2006 by a judge of the U.S. District Court for the Southern District of Florida in connection with litigation brought by environmental groups concerning the manner in which the permits were granted. Although not named as a defendant, CEMEX Florida has intervened in the proceedings to protect its interests. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the relevant governmental agencies in connection with the issuance of the permits. The judge remanded the permits to the relevant governmental agencies for further review, which review the governmental agencies have indicated in a recent announcement should take until mid February 2009 to conclude. The judge also conducted further proceedings to determine the activities to be conducted during the remand period. In July 2007, the judge issued a ruling that halted certain quarrying operations at three non-CEMEX Florida quarries. The judge left in place CEMEX Florida's Lake Belt permits until the relevant government agencies complete their review. In a May 2008 ruling, the federal appellate court determined that the district court judge did not apply the proper standard of review to the permit issuance decision of the governmental agency, vacated the district court's prior order, and remanded the proceeding to the district court to apply the proper standard of review; this review remains pending before the district court judge. If the Lake Belt permits are ultimately set aside or quarrying operations under them restricted, CEMEX Florida will need to source aggregates, to the extent available, from other locations in Florida or import aggregates. This would likely affect profits

from our Florida operations. Any adverse impacts on the Florida economy arising from the cessation or significant restriction of quarrying operations in the Lake Belt could also have a material adverse effect on our financial results.

Europe

In Great Britain, future expenditure on closed and current landfill sites has been assessed and quantified over the period in which the sites are considered to have the potential to cause environmental harm, generally consistent with the regulator view of up to 60 years from the date of closure. The assessed expenditure relates to the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure. The costs have been quantified on a net present value basis in the amount of approximately £122 million, and an accounting provision for this sum has been made at 31 December 2007.

In 2003, the European Union adopted a directive implementing the Kyoto Protocol on climate change and establishing a greenhouse gas emissions allowance trading scheme within the European Union. The directive requires Member States to impose binding caps on carbon dioxide emissions from installations involved in energy activities, the production and processing of ferrous metals, the mineral industry (including cement production) and the pulp, paper or board production business. Under this scheme, companies with operations in these sectors receive from the relevant Member States allowances that set limitations on the levels of greenhouse gas emissions from their installations. These allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that are not reaching their emissions objectives. Companies can also use credits issued from the use of the flexibility mechanisms under the Kyoto protocol to fulfill their European obligations. These flexibility mechanisms provide that credits (equivalent to allowances) can be obtained by companies for projects that reduce greenhouse gas emissions in emerging markets. These projects are referred to as Clean Development Mechanism ("**CDM**") or joint implementation projects depending on the countries where they take place. Failure to meet the emissions caps is subject to heavy penalties.

Companies can also use, up to a certain level, credits issued under the flexible mechanisms of the Kyoto protocol to fulfill their European obligations. Credits for Emission Reduction projects obtained under these mechanisms are recognized, up to a certain level, under the European emission trading scheme as allowances. To obtain these emission reduction credits, companies must comply with very specific and restrictive requirements from the United Nations Convention on Climate Change (UNFCC).

As required by directive, each of the Member States established a National Allocations Plan, or NAP, setting out the allowance allocations for each industrial facility for Phase I, from 2005 to 2007. Based on the NAPs established by the Member States of the European Union for the 2005 to 2007 period and our actual production, on a consolidated basis after trading allowances between our operations in countries with a deficit of allowances and our operations in countries with an excess of allowances, and after some external operations, Borrower's Subsidiaries had a surplus of allowances of approximately 1,050,054 tons of carbon dioxide in this Phase I.

For Phase II, comprising 2008 through 2012, however, there has been a reduction in the allowances granted by the Member States that have already approved their NAP, which may result in a consolidated deficit in our carbon dioxide allowances during the period. We believe we may be able

to reduce the impact of any deficit by either reducing carbon dioxide emissions in our facilities or by obtaining additional emission credits through the implementation of CDM projects. If we are not successful in implementing emission reductions in our facilities or obtaining credits from CDM projects, we may have to purchase a significant amount of emission credits in the market, because CEMEX has already sold a substantial amount of allowances for Phase II, the cost of which may have an impact on our operating results. As of 1 December 2008, the market value of carbon dioxide allowances for Phase II was approximately 15.45 € per ton. CEMEX is taking all the measures to minimize our exposure to this market while assuring the supply of our products to our clients.

The Spanish NAP has been finally approved by the Spanish Government, reflecting the conditions that were set forth by the European Commission. The allocations made to our installations allow us to foresee certain availability of allowances, nevertheless, there remains the uncertainty regarding the allocations that, against the reserve for new entrants, shall be requested for the new CEMEX cement plant in Andorra (Teruel), and that it is scheduled to start operating in 2010.

On 29 May 2007, the Polish government filed an appeal before the Court of First Instance in Luxemburg regarding the European Commission's rejection of the initial version of the Polish NAP. The Court has denied Poland's request for a quick path verdict in the case, keeping the case in the regular proceeding path, therefore, the Polish government has started to prepare Polish internal rules on division of allowance at the level already accepted by the European Commission. Seven major Polish cement producers, representing 98% of Polish cement production (including CEMEX Polska), have also filed seven separate appeals before the Court of First Instance regarding the European Commission's rejection. On 29 September 2008 the Court of the First Instance issued an order rejecting CEMEX Polska's appeal without going into the merit of the case. As of 31 December 2008 the final version of the Polish NAP has not been cleared by the Commission; CEMEX has not determined the impact this may have on CEMEX's position in the country.

33. Tax Matters

Philippines

As of 31 December 2008, the Philippine Bureau of Internal Revenue (BIR), had assessed APO, Solid, IQAC, ALQC and CSPI, our operating subsidiaries in the Philippines, for deficiency taxes covering taxable years 1998-2005 amounting to a total of approximately 1,994 million Philippine Pesos (approximately U.S.$41.96 million as of 31 December 2008, based on an exchange rate of Philippine Pesos 47.52 to U.S.$1.00, which was the Philippine Peso/Dollar exchange rate on 31 December 2008 as published by the Bangko Sentral ng Pilipinas, the central bank of the Republic of the Philippines).

The majority of the tax assessments result primarily from the disallowance of APO's income tax holiday incentives for taxable years 1999 to 2001 (approximately Philippine Pesos 1,078 million or U.S.$22.68 million as of 31 December 2008, based on an exchange rate of Philippine Pesos 47.52 to U.S.$1.00). We have contested the BIR's assessment, arising from the disallowance of the ITH incentive, with the Court of Tax Appeals (CTA). The initial Division ruling of the CTA was unfavorable, but is subject to further appeal with the CTA as a whole. The assessment is now currently on appeal with the CTA En Banc. A motion was filed with the CTA, requesting the court to hold APO totally not liable for alleged income tax liabilities for all the years covered and to this end cancel and withdraw APO's deficiency income tax assessments for taxable years 1999, 2000 and 2001 on the basis of APO's availment of the tax amnesty described below. As of 31 December 2008, resolution on the aforementioned motion is still pending.

34. **CEMEX Venezuelan Nationalization**

In furtherance of Venezuela's announced policy to nationalize certain sectors of the economy, on 18 June 2008, the Nationalization Decree was promulgated, mandating that the cement production industry in Venezuela be reserved for the Government of Venezuela and ordering the conversion of foreign-owned cement companies, including CEMEX Venezuela, into state-controlled companies with Venezuela holding an equity interest of at least 60%. The Nationalization Decree provided for the formation of a transition committee to be integrated with the board of directors of the relevant cement Borrowers to guaranty the transfer of control over all activities of the relevant cement Borrowers to Venezuela by 31 December 2008. The Nationalization Decree further established a deadline of 17 August 2008 for the shareholders of foreign-owned cement companies, including CEMEX Venezuela, to reach an agreement with the Government of Venezuela on the compensation for the nationalization of their assets. The Nationalization Decree also provided that this deadline may be extended by mutual agreement of the Government of Venezuela and the relevant shareholder. The transition committee, which was to be coordinated by the Ministry of Basic Industries (MIBAN), was never formally instituted and MIBAN never acted in the process, but instead Petroleos de Venezuela (PDVSA) conducted all the conversations.

CEMEX Venezuela and the Government did not reach agreement by the August 17 2008 deadline, and on August 18 2008 the Expropriation Decree was issued by the President of Venezuela, with PDVSA appointed to conduct the expropriation proceedings. Although these proceedings had not yet commenced, PDVSA officials headed a group of PDVSA workers, with the support of the public force, to take over all the facilities of CEMEX Venezuela on August 17 2008. Since no agreement has been reached with the Venezuelan Government as to the compensation to be paid, the Dutch companies that control CEMEX Venezuela filed an arbitration request before the International Center for the Settlement of Investment Disputes against the Government of Venezuela, which request has been registered and the tribunal is in the process of being formed.

As of 31 December 2007, CEMEX Venezuela, S.A.C.A. was the holding entity of several of CEMEX's investments in the region, including CEMEX's operations in the Dominican Republic and Panama, as well as CEMEX's minority investment in Trinidad & Tobago. In the wake of statements by the Government of Venezuela about the nationalization of assets in Venezuela, in April 2008, CEMEX concluded the transfer of all material non-Venezuelan investments to Cemex España, S.A. for approximately U.S.$355 million plus U.S.$112 million of net debt, having distributed all accrued profits from the non-Venezuelan investments to the stockholders of CEMEX Venezuela amounting to approximately U.S.$132 million. At this time, the net impact or the outcome of the nationalization on CEMEX's consolidated financial results cannot be reasonably estimated. As of 31 December 2008, the net assets of CEMEX's Venezuelan operations under Mexican FRS were approximately US$451.7 million. Since August 2008, CEMEX no longer consolidates the financial results of CEMEX Venezuela.

On 13 June 2008, the Venezuelan securities authority initiated an administrative proceeding against CEMEX Venezuela, claiming that the Borrowers did not sufficiently inform its shareholders and the securities authority in connection with the transfer of the non-Venezuelan assets described above. The Venezuelan authority determined that CEMEX Venezuela did not comply with its disclosure

obligations and imposed fines on the Borrowers, which we do not consider material, and requested the attorney general's office to review the case to determine if such non-disclosure also constituted criminal infringement.

35. **Other Legal Proceedings**

On 5 August 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia, claiming that it was liable along with the other members of the Asociación Colombiana de Productores de Concreto, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system of Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads in a manner which guarantees their service during the 20-year period for which they were originally designed, and estimate that the cost of such repair will be approximately U.S.$45 million. The lawsuit was filed within the context of a criminal investigation of two ASOCRETO officers and other individuals, alleging that the ready-mix concrete producers were liable for damages if the ASOCRETO officers were criminally responsible. The court completed the evidentiary stage, and on 17 August 2006 dismissed the charges against the members of ASOCRETO. The other defendants (one ex-director of the Distrital Institute of Development, the legal representative of the constructor and the legal representative of the contract auditor) were formally accused. The decision was appealed, and on 11 December 2006, the decision was reversed and the two ASOCRETO officers were formally accused as participants (determiners) in the execution of a state contract without fulfilling all legal requirements thereof. The first public hearing took place on 20 November 2007. In this hearing the judge dismissed an annulment petition filed by the ASOCRETO officers. The petition was based on the fact that the officers were formally accused of a different crime than the one they were being investigated for. This decision was appealed, but the decision was confirmed by the Superior Court of Bogota. On 21 January 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called El Tujuelo, as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required within a period of 10 days to deposit with the Court in cash CoP$337,800 million (approximately U.S.$195 million as of 4 June 2008, based on an exchange rate of CoP1730 to U.S.$1.00, which was the Colombian Peso/Dollar exchange rate on 4 June 2008, as published by the Banco de la República de Colombia, the central bank of Colombia), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. The measure does not affect the normal activity of the quarry. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.

On 5 August 2005, Cartel Damages Claims, SA, or CDC, filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG and other German cement companies. CDC is seeking €102 million in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002, which entities had assigned their claims

to CDC. CDC is a Belgian Borrowers established by two lawyers in the aftermath of the German cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office with the express purpose of purchasing potential damages claims from cement consumers and pursuing those claims against the cartel participants. In January 2006, another entity assigned alleged claims to CDC, and the amount of damages being sought by CDC increased to €113.5 million plus interest. On February 21 2007, the District Court of Düsseldorf decided to allow this lawsuit to proceed without going into the merits of this case by issuing an interlocutory judgment. All defendants appealed. The appeal hearing took place on 22 April 2008, and the appeal was dismissed on 14 May 2008. The lawsuit will proceed at the level of court of first instance. As of 30 September 2008 only one defendant has decided to file a complaint before the Federal High Court; this will delay the case from proceeding at the level of first instance to an extent we cannot assess today. In the meantime, CDC had acquired new assigners and announced an increase in the claim to €131 million. As of 30 November 2008, we had accrued liabilities regarding this matter for a total amount of approximately €20 million.

During November 4, 5 and 6, 2008, officers of the European Commission, assisted by local officials, conducted an unannounced inspection at CEMEX offices in the United Kingdom and Germany. It is understood that Commission officials carried out unannounced inspections at the premises of other companies active in the cement and related products industry in several member states. The Commission alleges that CEMEX may have participated in anti competitive agreements and/or concerted practices in breach of Article 81 of the EC Treaty and/or Article 53 of the EEA Agreement and abusive conduct in breach of Article 82 of the EC Treaty and/or Article 54 of the EEA Agreement. The allegations extend to several markets worldwide, including in particular the European Economic Area; if those allegations are substantiated, significant penalties may be imposed on the subsidiaries of CEMEX operating in such markets. CEMEX fully co-operated and will continue to co-operate with the Commission officials in connection with the inspection.

After an extended consultation period, in April 2006, the cities of Kaštela and Solin in Croatia published their respective Master (physical) Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to Dalmacijacement, our subsidiary in Croatia, by the Government of Croatia in September 2005. During the consultation period, Dalmacijacement submitted comments and suggestions to the Master Plans, but these were not taken into account or incorporated into the Master Plan by Kaštela and Solin. Most of these comments and suggestions were intended to protect and preserve the rights of Dalmacijacement´s mining concession granted by the Government of Croatia in September 2005. Immediately after publication of the Master Plans, Dalmacijacement filed a series of lawsuits and legal actions before the local and federal courts to protect its acquired rights under the mining concessions. The legal actions taken and filed by Dalmacijacement were as follows: (i) on 17 May 2006, a constitutional appeal before the constitutional court in Zagreb, seeking a declaration by the court concerning Dalmacijacement's constitutional claim for decrease and obstruction of rights earned by investment, and seeking prohibition of implementation of the Master Plans, the appeal is currently under review by the court in Croatia, and it is expected that these proceedings will continue for several years before resolution; (ii) on 17 May 2006, a possessory action against the cities of Kaštela and Solin seeking the enactment of interim measures prohibiting implementation of the Master Plans and including a request to implead the Republic of Croatia into the proceeding on our side. The municipal court in Solin issued a first instance judgment dismissing our possessory action. We filed an appeal against that judgment. The

appeal has been resolved by the Solin County Court, affirming the judgment and rendering it final. The Municipal Court in Kaštela has issued a first instance judgment dismissing our possessory action. We filed an appeal against said judgment, which has since been resolved by the Kaštela Country Court, affirming the judgment and rendering it final; (iii) on 17 May 2006, an administrative proceeding before the State Lawyer, seeking a declaration from the Government of Croatia confirming that Dalmacijacement acquired rights under the mining concessions. Dalmacijacement received State Lawyer's opinion which confirms the Dalmacijacement's acquired rights according to the previous decisions ("old concession"). The Administrative Court in Croatia has ruled in favor of Dalmacijacement, validating the legality of the mining concession granted to Dalmacijacement by the Government of Croatia. This decision is final. Currently it is difficult for Dalmacijacement to ascertain the approximate economic impact of these measures by Kaštela and Solin.

Club of Environmental Protection, a Latvian environmental protection organization (hereinafter the " **Applicant**"), has initiated a court administrative proceeding against the decision made by the Environment State Bureau (hereinafter the " **Defendant**") in order to amend the environmental pollution permit (the "**Permit**") for the Broceni Cement Plant in Latvia, owned by CEMEX SIA (the " **Disputed Decision**"). CEMEX SIA was invited to participate in the court proceedings as a third party, whose rights and legal interest may be infringed by the relevant administrative act. On 5 June 2008 the Court rendered its judgment, where it satisfied the Claimant's claim and revoked the Disputed Decision stating that it is illegal because Defendant failed to perform public inquiry in accordance with legal regulations. The judgment has been appealed by both the Defendant and CEMEX SIA before the Court of Appeal and the court will hear the case in 24 February 2009. The appellate procedure will not suspend the operation of the Permit which will remain valid throughout the court proceedings, hence CEMEX SIA is allowed to continue to perform its activities. The Permit subject to this proceeding was issued for the existing cement line, which will be fully substituted in the first half of 2009 by a new cement line currently under construction.

SCHEDULE 9
ACQUISITIONS

1 PURCHASE OPTION OF THE CLINKER GRINDING/MILLING.

1.1 Currently owner: Cementos del Tajo, S.A., placed in Noblejas (Toledo)

1.2 Purchase option granted on: 1 January 2009

1.3 Term to exercise the purchase option: 3 years.

1.4 Price: EUR 40,000,000.- € (foreseeable upgrade in EUR 5,000,000 plus)

1.5 Special conditions: to exercise the option combined with the purchasing of the grinding/milling of Narón (La Coruña)

1.6 Put: N/A.

2 PURCHASE OPTION OF THE CLINKER GRINDING/MILLING

2.1 Currently owner: Cementos Galegos, S.A., placed in Narón (La Coruña)

2.2 Purchase option granted on: 1 January 2009

2.3 Term to exercise the purchase option: 3 years.

2.4 Price: EUR 40,000,000.- € (foreseeable downgrade in EUR 5,000,000 plus)

2.5 Special conditions: to exercise the option combined with the purchasing of the grinding/milling of Noblejas (Toledo)

2.6 Put: N/A.

3 PURCHASE OPTION OF THE SHARES OF CEMENTOS CASTILLA LA MANCHA, S.A., WHICH IS THE OWNER OF A CLINKER GRINDING/MILLING PLACED IN MONTALBO (CUENCA).

3.1 Purchase option granted on: 1 October 2008

3.2 Term to exercise the purchase option: 3 years.

3.3 Price: EUR 18,015,800.- € (all the shares)

3.4 Special conditions: not to acquire more than the 50% of the shares before 1 July 2009

3.5 Put: to be exercised by the currently shareholders upon the date in which CEMEX acquires or hold more than 50% of the shares.

4 PURCHASE OPTION OF 300 SHARES REPRESENTING THE 0,66% OF THE SHARE CAPITAL OF CEMENTOS ANDORRA, S.A., WHICH IS THE OWNER OF THE CEMENT FACTORY THAT IS UNDER CONSTRUCTION IN ANDORRA (TERUEL)

4.1 Purchase option granted on: 23 May 2006

4.2 Term to exercise the purchase option: 4 year from the 23 May 2011

4.3 Price: EUR 10,080,000

4.4 Special conditions: N/A (Cemex España, S.A. is currently the owner of the 99' 34% of the share capital)

4.5 Put: to be exercised during a 4 years period (starting from 23 May 2011).

5 AGREEMENT MADE CONDITIONAL TO THE SALE-PURCHASE OF THE WHOLE SHARE CAPITAL OF ORIONIDAS S.A.

5.1 Execution date: 3 October 2008.

5.2 Conditions Precedent for the closing, to be complied before the 30 April 2009: (i) an authorisation of the Spanish National Competence Commission (*Comisión Nacional de la Competencia*) (issued on 19 November 2008); and (ii) completion of the construction works of the terminal and the obtaining of the permissions and authorisations needed to operate the terminal.

5.3 Purchasing price: approx. EUR 42,000,000 (part of it, EUR 10,795,000 by way of cash the rest by assuming debt).

6 ACQUISITION OF LIMESTONE RESERVES IN SOUTHERN CEBU.

6.1 Work is underway for negotiations and preparation of agreements which will give APO Land and Quarry Corporation a "preferential" right or option to acquire up to late 2009 the mining rights/license of Southwestern Cement Corporation over an area in southern Cebu in order to augment APO Land and Quarry Corporation's requirements. Sellers are still working on securing the required clearance from government agency confirming that all deficiencies in respect of compliance with the requirements of the mining license have been complied with.

6.2 Price: once the clearance is secured, APO Land and Quarry Corporation shall pay Php 20,000,000 (approx. US$ 425,000), by way of properties, for the option to purchase shares of Southwestern Cement Corporation before end of 2009. Said amount shall be forefeited in the event APO Land and Quarry Corporation decides not to exercise the option. However, in the event APO Land and Quarry Corporation decides to exercise the option and push through with the purchase of the Southwestern Cement Corporation shares, said amount of Php 20,000,000 (approx. US$ 425,000) shall form part of the purchase price of Php 500,000,000 (approx. US$ 10,500,000).

7 ACQUISITION OF LIMESTONE RESERVES IN LUZON.

7.1 Solid Cement Corporation is engaged in exploratory talks for possible acquisition of mining rights/license of Teresa Marble Corporation over an area in Luzon currently being quarried by Solid Cement Corporation under an Operating Agreement with Teresa Marble Corporation, which is due to expire on 2014.

7.2 Execution date: it is been negotiated to get a preferential right or option to acquire Teresa Marble Corporation's mining rights/license up to end of 2010, with Solid Cement Corporation.

7.3 Price: paying Php 20,000,000 (approx. US$ 425,000), by way of properties, for such option right. Said amount shall be forefeited in the event Solid Cement Corporation decides not to exercise the option; otherwise, the amount shall form part of the purchase price to be agreed upon by the parties.

Exhibit 4.32

CONDITIONAL WAIVER AND EXTENSION AGREEMENT

(1) CEMEX, S.A.B. de C.V. ("**CEMEX Parent**")
Ave. Ricardo Margáin Zozaya # 325
Col. Valle del Campestre
Garza García, N.L. 66265 México

(2) CEMEX España, S.A. ("**CEMEX España**")
Hernández de Tejada, 1
28027 Madrid
Spain

April 2009

Dear Sirs

Conditional Waiver and Extension Agreement

1. **Introduction**

The undersigned banks and financial institutions (the "**Lenders**") have entered into this Letter to document certain temporary conditional waivers and agreements for extensions of repayment dates in relation to certain credit facilities and other financial accommodation made available by them to members of the Group (the "**Transaction**"). In entering into this Letter, and any discussions and negotiations with CEMEX Parent and CEMEX España, each of the Lenders is acting severally, for its own account as principal, and not as agent or representative of any other creditor or institution.

2. **Definitions and interpretation**

Capitalised terms used in this Letter have the meanings given to them in paragraph 1 (*Definitions*) of Annex 2 (*Definitions and interpretation*) and this Letter shall be construed in accordance with paragraph 2 (*Construction*) of Annex 2 (*Definitions and interpretation*).

3. **Conditional Waivers and Extensions**

3.1 Each Lender agrees:

(a) in relation to each Relevant Existing Facility listed in Part A and Part B of Annex 3 (*Exposures*), to extend the payment date of any principal sums (including, for the avoidance of doubt, any net balance resulting from the close out of derivatives transactions or any collateral agreements related thereto or any notes issued in connection therewith) which fall due for payment under such Relevant Existing Facility during the Relevant Period (except to the extent falling due pursuant to any Illegality Clause) until the end of the Relevant Period (at which time such amounts shall be payable in accordance with sub paragraph 3.3 below);

(b) in relation to each Relevant Existing Facility listed in Part A and Part B of Annex 3 (*Exposures*), to temporarily waive, for the Relevant Period:

(i) any and all Defaults which may arise under (a) any Insolvency Clause or (b) a Material Adverse Change Clause, in each case as a result of or in connection with the events or circumstances described in the Presentations **provided that**, to the extent that any such Default arises as a result of discussions with creditors, such discussions are Agreed Discussions;

(ii) any Cross Default;

(iii) any and all Defaults arising under the Notification Clause in respect of the matters referred to in sub paragraphs (i) and (ii) above and (iv) below;

(iv) any and all Defaults arising out of, and any consequential misrepresentation under any Related Representation in such Existing Facility in respect of, the matters referred to in sub paragraphs (i) to (iii) above,

provided that, for the avoidance of doubt, no waiver shall be granted under this sub paragraph (b) by any Lender which is not a member of the G12 other than in relation to the facilities made available by it pursuant to the RMC Facilities Agreement and, if such Lender is a Euro/Yen Lender, the Euro/Yen Facilities Agreement; and

(c) where necessary, to amend documents relating to a Relevant Existing Facility to incorporate the waivers and extensions (and any amendments consequent thereto) granted in this Letter.

3.2 The provisions of sub paragraph 3.1 above will have effect on the date on which all of the conditions set out in Annex 4 (*Conditions Precedent)* are satisfied or waived.

3.3 The waivers and extensions granted in sub paragraph 3.1 above are temporary waivers to apply only during the Relevant Period. At the end of the Relevant Period, subject to any express agreement in writing to the contrary, such waivers shall automatically terminate and (A) all rights and remedies which would have been available to the Lenders had such waivers not been granted shall become immediately available and (B) the amount of all Extended Payments shall become immediately due and payable and all other amounts outstanding under each Relevant Existing Facility (together with any accrued interest or other amounts payable in respect thereof) shall be payable on demand of those institutions which would be the Required Lenders under such Relevant Existing Facility in relation to exercising acceleration or other rights following an event of default thereunder **provided that** if:

(a) a voluntary case or proceeding under any Relevant Insolvency Law has been commenced by CEMEX Parent or any Obligor or it has made any filing seeking such relief under any Relevant Insolvency Law, even in the absence of any judicial resolution in respect of such filing;

(b) an involuntary proceeding under any Relevant Insolvency Law is commenced against CEMEX Parent or any Obligor or an order for relief or any other similar order under applicable law is granted and such proceeding or order is not dismissed or stayed within 10 business days, or CEMEX Parent or any Obligor consents to the commencement of such an involuntary proceeding;

(c) any stay or prohibition or other circumstances exist under any law which would make it unlawful in any relevant jurisdiction for any Lender to make, or otherwise prohibit the making of, demand in respect of the outstanding amounts under the Relevant Existing Facilities to which any of the Lenders is a party; or

(d) there is a general or specific moratorium, or any similar measure, declared or taken by any governmental authority limiting, restricting or otherwise affecting the ability of CEMEX Parent or any Obligor to perform its obligations under an Existing Facility,

then, instead of being payable on demand, as indicated in (B) above, all such outstanding amounts shall become immediately due and payable (and all commitments under such Existing Facilities shall be cancelled) automatically and without the need for any demand or other claim.

3.4 Each of the events set out in Annex 5 (*Termination Events*) constitutes a Termination Event.

3.5 If a Termination Event specified in paragraphs (a) to (l) of Annex 5 (Termination Events) occurs after the Reference Date then the Relevant Period shall, with effect from notification by any Lender to the Co-ordinators and CEMEX Parent, immediately terminate (such notice to be given simultaneously, with a copy to be sent by the Co-ordinators to the Lenders).

3.6 If a Termination Event specified in paragraph (m) of Annex 5 (*Termination Events*) occurs, then on the date falling 7 days after the date of the notice (a "**Termination Notice**") given by the Terminating Lender as referred to in that paragraph (a " **Termination Date**"), the agreements given by that Terminating Lender in sub paragraph 3.1 above shall terminate, and that Terminating Lender shall cease to be bound by the terms of this Letter **provided that** notwithstanding the delivery of such Termination Notice by the Terminating Lender, the other Lenders shall continue to be bound by this Letter in accordance with, and subject to, its terms **but provided further that**

(a) following any such Termination Notice being given by a Terminating Lender (an "**Initial Terminating Lender**"), any other Lender (a "**Further Terminating Lender**") may also give a Termination Notice not less than two days prior to the relevant Termination Date applicable to the Initial Terminating Lender; and

(b) such Further Terminating Lender shall cease to be bound by the terms of this Letter on the relevant Termination Date applicable to that Initial Terminating Lender.

4. **Undertakings and representations of CEMEX Parent and the Obligors**

4.1 CEMEX Parent and each of the Obligors undertakes:

(a) to procure that, no later than the date of this Letter, FTI Consulting Canada ULC. has been appointed as financial adviser to the Lenders;

(b) to:

(i) conduct a critical review of its operations in all countries in which it has Subsidiaries, operations and/or assets;

(ii) identify assets and/or shares in any Subsidiary or other companies in any such countries for disposal with a view to reducing borrowing levels of the Group as soon as reasonably practicable using the sale proceeds from such disposals; and

(iii) by no later than Friday 24 April 2009 (or such later date as may be agreed by the parties to this Letter acting reasonably), hold a meeting to which all of the Lenders (and as many other Financial Creditors of the Group as CEMEX Parent may reasonably elect) are invited to present and discuss the results of its analysis with respect to the disposals referred to in sub paragraph (ii) above (with copies of such analysis to be circulated to the Co-ordinators for distribution to the Lenders no later than Monday 20 April 2009 (or such later date as may be agreed by the parties to this Letter acting reasonably));

(c) to examine the possibilities of an increase of share capital of CEMEX Parent or another member of the Group and, if appropriate, to take reasonable steps to prepare for such an increase of share capital at a future date;

(d) to agree with the Lenders, within 3 weeks of the date of this Letter, a set of mutually acceptable milestones and dates for achievement of such milestones;

(e) to explore the availability of financial support, direct and indirect, from the Mexican government; and

(f) to notify the Co-ordinators (with a copy of such notice to be sent by the Co-ordinators to the Lenders) of any Termination Event promptly on becoming aware of its occurrence (unless that Obligor is aware that a notification has already been given by another Obligor) provided that the giving of such a notification shall not itself cause the Relevant Period to terminate and, for the avoidance of doubt, any termination of the Relevant Period shall be made in accordance with paragraphs 3.5 and 3.6 of paragraph 3 (Conditional Waivers and Extensions).

4.2 Each Obligor makes the representations and warranties set out in Annex 6 (*Representations and Warranties*):

(a) (with the exception of paragraph (e) of Annex 6 (*Representations and Warranties*)) as of the date of this Letter; and

(b) (for the avoidance of doubt, including paragraph (e) of Annex 6 (*Representations and Warranties*)), as of the first day of each calendar month thereafter during the Relevant Period,

in each case by reference to the facts and circumstances then existing.

5. **Co-operation with Due Diligence and Lenders' Financial Adviser**

5.1 The Lenders are authorised to engage FTI Consulting Canada ULC. as a financial adviser in connection with the Transaction to conduct an independent business review including a strategic analysis (but, for the avoidance of doubt, excluding involvement in the running of CEMEX Parent or any member of the Group). The scope of the engagement of such adviser will be as determined from time to time by the Co-ordinators (in consultation with the Committee Banks), subject to consultation with CEMEX Parent. The initial scope of the engagement of the adviser will be sent to CEMEX Parent once it has been agreed. The Lenders may change the financial adviser, any one or more of the accountants or other firms advising them and the Co-ordinators (in consultation with the Committee Banks) may change the scope of their engagement at any time.

5.2 CEMEX Parent shall, and shall ensure that each member of the Group will:

(a) co-operate and work with such financial adviser that may be appointed under sub-paragraph 5.1 above so as to provide them with full access to all information reasonably required to complete their investigation of the financial condition of the Group; and

(b) co-operate, and procure that its legal advisers co-operate, with any legal advisers appointed by the Lenders so as to provide them with full access to all information (excluding legally privileged information) reasonably required in connection with legal due diligence (including, without limitation, granting access to any data rooms).

6. **Preservation of Rights and Override**

Save as expressly referred to in sub paragraph 3.1 of paragraph 3 (*Conditional Waivers and Extensions*), all terms and conditions of each Existing Facility to which a Lender is a party shall remain in full force and effect and are not modified in any respect by the provisions of this Letter, including paragraph 4 (*Undertakings and representations of CEMEX Parent and the Obligors*), and each Lender reserves all rights and remedies it may have against any member of the Group except as expressly provided in this Letter. In the event of any inconsistency between the terms of any Relevant Existing Facility and the terms of this Letter (other than paragraphs 11 (*Governing Law*) and 12 (*Jurisdiction*)), the terms of this Letter will prevail.

7. **Effect of Agreements in this Letter**

7.1 If a Lender is a party to a Relevant Existing Facility in respect of which the Required Lenders have not yet agreed to each of the matters referred to in sub paragraph 3.1 of paragraph 3 (*Conditional Waivers and Extensions*), then until such time as such Required Lenders do so agree, the provisions of sub paragraph 3.1 of paragraph 3 (*Conditional Waivers and Extensions*) shall, subject to the other provisions of this Letter, take effect in relation to such Lender under and in respect of such Relevant Existing Facility as:

(a) an agreement to vote in any deliberations of the creditors under such Relevant Existing Facility, in favour of bringing about the consequences referred to in sub paragraph 3.1 of paragraph 3 (*Conditional Waivers and Extensions*); and

(b) an agreement not to act in any way inconsistent with bringing about the consequences referred to in sub paragraph 3.1 of paragraph 3 (*Conditional Waivers and Extensions*) in respect of such Relevant Existing Facility except as may be required by the terms of such Relevant Existing Facility or as may be necessary to protect or preserve its rights under such Relevant Existing Facility in connection with any action decided upon by the Required Lenders,

provided that so long as such Lender acts in accordance with this paragraph 7 (*Effect of Agreements in this Letter*), such Lender shall have no liability for failing to bring about an effective waiver or extension referred to in sub paragraph 3.1 of paragraph 3 (*Conditional Waivers and Extensions*) or for failing to prevent lenders generally under such Relevant Existing Facility acting in a manner which is inconsistent with sub paragraph 3.1 of paragraph 3 (*Conditional Waivers and Extensions*).

7.2 For the avoidance of doubt, nothing in this Letter shall impose on any Lender any obligation to agree to any proposal with respect to Financial Indebtedness owing to it (except for the extensions and waivers pursuant to sub paragraph 3.1of paragraph 3 (*Conditional Waivers and Extensions*)) under any Existing Facility and nothing in this Letter constitutes a commitment by any Lender to provide financing to any member of the Group.

8. **General**

8.1 No amendment or waiver of this Letter shall be effective unless it is made in writing and signed by each party.

8.2 Notwithstanding any other provision of this Letter, no Lender shall be liable for (i) any indirect, special, punitive or consequential damages in connection with its activities related to this Letter (and, in the case of a Lender which is a Co-ordinator, under no circumstances whatsoever will such Lender have any liability under or in respect of this Letter in relation to its activities as a Co-ordinator) or (ii) any action that it takes or the omission of any action by it that results in a Termination Event, unless due to a breach of its obligations under this Letter or the Derivatives Side Letter.

8.3 Each member of the G12 agrees to take reasonable steps to ensure that all of its facilities and amounts maturing during the Relevant Period are included in Annex 3 (Exposures) and will promptly inform the other members of the G12 of any changes to Annex 3 (Exposures) relating to the Exposures of that G12 member.

9. **Acceding Lenders and Acceding Obligors**

9.1 At any time, a Financial Creditor of any member of the Group which is not already a party hereto may become party hereto as a Lender by delivery to CEMEX Parent and the Co-ordinators a Lender Accession Letter specifying details of (and designating as an Existing Facility) each facility to which such Financial Creditor is a party and, in the case of any Existing Facility for which an extension pursuant to sub paragraph 3.1(a) of paragraph 3 (*Conditional Waivers and Extensions*) is to be granted, stating its Exposure thereunder.

9.2 Upon delivery of a Lender Accession Letter in accordance with sub paragraph 9.1 above, the Financial Creditor shall become a Lender hereunder, entitled to all of the rights and benefits expressed in favour of, and subject to all of the agreements made by and obligations expressed to be undertaken by, a Lender in this Letter.

9.3 The Co-ordinators will, as soon as reasonably practicable after the date of a Lender Accession Letter, update the list of Exposures contained in Annex 3 (*Exposures*) to include the Exposures of the relevant Financial Creditor which has delivered such Lender Accession Letter, and once amended, circulate the same to CEMEX Parent and the Lenders (and such updated form of Annex 3 (*Exposures*) shall be deemed to replace Annex 3 (*Exposures*) of this Letter).

9.4 Each of CEMEX Parent and CEMEX España shall use its best endeavours to procure that, as soon as reasonably practicable after:

(a) the date of this Letter, each Subsidiary Obligor; and

(b) the date of any Lender Accession Letter which refers to an Existing Facility in respect of which a member of the Group which is not an Obligor is a borrower or guarantor, such member of the Group,

shall, in each case, become a party to this Letter (and, if such Obligor is a CEMEX Derivatives Party (as defined in the Derivatives Side Letter), the Derivatives Side Letter) as an Acceding Obligor upon delivery to the Lenders of an Obligor Accession Letter together with supporting corporate authorities (including board resolutions or equivalent, powers of attorney (if relevant) and copies of constitutional documents (unless such documents have previously been provided to the Co-ordinators in relation hereto)).

10. **Fees**

10.1 In consideration of the agreements given by the Lenders in this Letter, CEMEX Parent and CEMEX España shall pay to each Lender the following fees at the times set out below:

(a) a fee of 0.75% on the amount of its Extended Payment, which shall be payable on the date at which the provisions of sub paragraph 3.1 of paragraph 3 (Conditional Waivers and Extensions) become effective in accordance with sub paragraph 3.2 of that paragraph (or to the extent such Extended Payment relates to a Relevant Existing Facility that consists of one or more derivatives transactions, the later of such date and the date of close out of all such derivatives transactions);

(b) a fee which shall be payable on each of 24 April 2009 and 24 May 2009 (or to the extent such Extended Payment relates to a Relevant Existing Facility that consists of one or more derivatives transactions, the later of such date and the date of close out of all such derivatives transactions) in an amount of 0.25% on the amount of its Extended Payment (provided that the Relevant Period has not been terminated prior to such date); and

(c) a fee of 0.50% on the amount of its Extended Payment, which shall be payable on 24 June 2009 (provided that the Relevant Period has not been terminated prior to such date).

10.2 The fees referred to in sub-paragraph 10.1 above shall be payable in immediately available, freely transferable, cleared funds to such accounts as the Lenders may advise and in full, without any set-off, deduction or withholding of any kind.

11. **Governing Law**

This Letter and any non-contractual obligations arising out of or in connection with it is governed by English law.

12. **Jurisdiction**

12.1 The courts of England have non exclusive jurisdiction to settle any dispute arising out of or in connection with this Letter (including a dispute regarding the existence, validity or termination of this Letter) or any non-contractual obligations arising out of or in connection with this Letter (a " **Dispute**").

12.2 The Obligors agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Obligor will argue to the contrary, and each such Obligor waives any right to which it may be entitled on account of place of residence or domicile.

12.3 This paragraph 12 is for the benefit of the Lenders only. As a result, no Lender shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law or regulation, the Lenders may take concurrent proceedings in any number of jurisdictions.

12.4 Each of the parties to this Letter hereby irrevocably waives any and all right to trial by jury in any suit, action or proceeding or counterclaim arising out of or relating to any of the transactions contemplated by this Letter or the actions of any Lender in the negotiation, administration, performance or enforcement thereof.

12.5 Without prejudice to any other mode of service allowed under any relevant law or regulation, each of the Obligors:

(a) shall irrevocably appoint CEMEX UK at its registered address being, as at the date of this Letter, CEMEX House, Coldharbour Lane, Thorpe, Egham, Surrey TW20 8TD and with fax number (+44) 01932 568933, Attn: The Secretary (the " **Process Agent**") as its agent for service of process in relation to any proceedings before the English courts in connection with this Letter and shall procure that the Process Agent confirms its acceptance of that appointment in writing on or before the date of this Letter; and

(b) agrees that failure by the Process Agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.

13. **Counterparts**

This Letter may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Letter.

Please sign below in agreement of this Letter.

Yours faithfully,

Australia and New Zealand Banking

Group Limited

By: /s/ John W. Wade
John W. Wade
Deputy General Manager
Head of Operations and Infrastructure

Banco Bilbao Vizcaya Argentaria, S.A.

By: /s/ Lionel de [illegible]
Lionel de [illegible]

By: /s/ Jose Garcia [illegible]
Jose Garcia [illegible]

BBVA Bancomer, S.A. Institución de Banca Múltiple
Grupo Financiero BBVA Bancomer

By: /s/ Alejandro [illegible]
Alejandro [illegible]
[illegible]

By: /s/ Jorge Ricardo Cano
Jorge Ricardo Cano
[illegible]

Banco Bilbao Vizcaya Argentaria, S.A., New York Branch

By: /s/ [illegible]
[illegible]
Assistant Vice-President
International Corporate Banking

By: /s/ Rodolfo Hare
Rodolfo Hare
Vice-President
Global Corporate Banking

Banco Santander, S.A.

By: /s/ [illegible]
Juan [illegible]
Attorney-in-fact

Bank of America, Sucursal en España

By: /s/ Vicente [illegible]
Vicente [illegible]

Bank of America, N.A.

By: /s/ Gustavo Muñiz
Gustavo Muñiz
Senior Vice President

Barclays Bank PLC, Sucursal en España

By: /s/ Cindy Gargano
Cindy Gargano
Managing Director

BNP Paribas

By: /s/ [illegible]
[illegible]

By: /s/ [illegible]
[illegible]

Calyon

By: /s/ Pierre [illegible]
Pierre [illegible]
Managing Director

By: /s/ Richard Teitelbaum
Richard Teitelbaum
Director

Citibank International plc, Sucursal en España

By: /s/ Kim W. [illegible]

Citibank, N.A. New York

By: /s/ Flavio [illegible]
Flavio [illegible], MD

HSBC Bank plc

By: /s/ [illegible]

HSBC Bank plc, Sucursal en España

By: /s/ Mark Hall
Mark Hall

HSBC México, S.A., Institución de Banca Múltiple,
Grupo Financiero HSBC

By: /s/ Kenneth F. Kryzda
Kenneth F. Kryzda

HSBC México, S.A., Institución de Banca Multiple, Grupo Financiero HSBC, acting through its Grand Cayman Branch

By: /s/ Kenneth F. Kryzda
Kenneth F. Kryzda

ING Bank N.V. (on behalf of itself and its subsidiaries)

By: /s/ M.P.W. Van Klink
M.P.W. Van Klink

By: /s/ H. Werger
H. Werger

ING Bank (México), SA, Institución de Banca Multiple

By: /s/ Miguel Estrada [illegible]
Miguel Estrada [illegible]
Attorney-in-fact

By: /s/ José Carassó [illegible]
José Carassó [illegible]
Director

ING Belgium S.A., Sucursal en España

By: /s/ Monica Martinez
Monica Martinez

By: /s/ [illegible]
[illegible]

JPMORGAN CHASE BANK, N.A.

By: /s/ William A. Austin
William A. Austin
Executive Director

The Royal Bank of Scotland plc

By: /s/ [illegible]

ABN Amro Bank N.V.

By: /s/ Luis Moreno
Luis Moreno

By: /s/ Hernan Lopez [illegible]
Hernan Lopez [illegible]

Lloyds TSB Bank plc

By: /s/ A.P. [ ]artley
A.P. [ ]artley
Senior Manager

Banco Español de Crédito, S.A.

By: /s/ [illegible] Gonzalez [illegible]
[illegible] Gonzalez [illegible]

By: /s/ [illegible] Alcubilla Gil
[illegible] Alcubilla Gil

Fortis Bank N.V.

By: /s/ Miguel Otero
Miguel Otero

By: /s/ Jose Sarasola
Jose Sarasola

Instituto de Credito Oficial

By: /s/ Antonio Bandres
Antonio Bandres
Head of International Finance

WestLB AG

By: /s/ Raul Calvo Tudela
Raul Calvo Tudela

By: /s/ Berto Nuvoloni
Berto Nuvoloni

Scotiabank Europe plc

By: /s/ Mark Sparrow
Mark Sparrow
Director

The Bank of Tokyo-Mitsubishi UJF, Ltd., Sucursal en España

By: /s/ Naoshi Miyajima
Naoshi Miyajima
General Manager

The Bank of Tokyo-Mitsubishi UFJ, Ltd., Mexico City Representative Office on behalf of the Bank of Tokyo-Mitsubishi UFJ, Ltd., Sucursal en España

Bayerische Landesbank Girozentrale

By: /s/ Nikolai von Mengden
Nikolai von Mengden
Senior Vice President

By: /s/ Gina Hoey
Gina Hoey
Vice President

Deutsche Bank Luxembourg S.A.

By: /s/ [illegible]

Unicredit S.p.A. - Madrid Branch

By: /s/ M. Campana
M. Campana
Director General

By: /s/ [illegible] Pozzolo
[illegible] Pozzolo
Subdirector

The Governor and Company of the Bank of Ireland

By: /s/ Kevin [illegible]
Kevin [illegible]

By: /s/ Cora Phelan
Cora Phelan
Manager

Intesa Sanpaolo S.p.A.

By: /s/ MarcoSilvio Pizzi
MarcoSilvio Pizzi
General Manager

Caja de Ahorros y Monte de Piedad de Madrid

By: /s/ Sergio Grasso
Sergio Grasso
Capital Markets

By: /s/ Gema Gamez
Gema Gamez
Capital Markets

Credit Agricole d'Ile de France

By: /s/ Agnés Prebet
Agnés Prebet
Directeur de Secteur

Dresdner Bank AG

By: /s/ Brian Smith
Brian Smith
Managing Director

By: /s/ Thomas [illegible]
Thomas [illegible]
Managing Director

Société Générale

By: /s/ [illegible]

Caja de Ahorros de Galicia

By: /s/ Arturo Bermúdez
Arturo Bermúdez

IKB Deutsche Industriebank AG, Sucursal en España

By: /s/ Favier Miló Olcina
Favier Miló Olcina

Caja de Ahorros de Asturias

By: /s/ Baltasar Suárez Llorente
Baltasar Suárez Llorente

BRED Banque Populaire

By: /s/ Christian Schellino
Christian Schellino
Directeur des Engagements

Centrobanca S.P.A.

By: /s/ [illegible]
[illegible]
[illegible]

Accepted and agreed:

CEMEX, S.A.B. de C.V.

For itself and on behalf of each

Subsidiary Obligor

By: /s/ [illegible]

By: /s/ [illegible]

Accepted and agreed:

CEMEX España, S.A.

For itself and on behalf of each

Subsidiary Obligor

By: /s/ [illegible]

By: /s/ [illegible]

ANNEX 1

SUBSIDIARY OBLIGORS

New Sunward Holding B.V.
Riverstate Building, Amsteldijk 166, 1079 LH Amsterdam, The Netherlands

CEMEX Corp
840 Gessner Suite 1400, Houston, TX 77024, USA

CEMEX France Services (Gie)
2 rue du Verseau, SILIC 423, 94150 Rungis CEDEX, France

CEMEX Australia Holdings Pty Ltd.
Tower B, Level 8, 799 Pacific Highway, Chatswood NSW 2067, Australia

CEMEX Australia Pty Ltd
Tower B, Level 8, 799 Pacific Highway, Chatswood NSW 2067, Australia

Empresas Tolteca de México, S.A. de C.V.
Avenida Ricardo Margain Zozaya 325, Colonia Valle Del Campestre, San Pedro Garza Garcia, Nuevo Leon, 66265 Mexico

CEMEX México, S.A. de C.V.
Avenida Ricardo Margain Zozaya 325, Colonia Valle Del Campestre, San Pedro Garza Garcia, Nuevo Leon, 66265 Mexico

CEMEX, Inc.
840 Gessner Suite 1400, Houston, TX 77024, USA

CEMEX Concretos, S.A. de C.V.
Avenida Ricardo Margain Zozaya 325, Colonia Valle Del Campestre, San Pedro Garza Garcia, Nuevo Leon, 66265 Mexico

CEMEX Materials, LLC
840 Gessner Suite 1400, Houston, TX 77024, USA

Escazu Investments
Suite 6201, 62 Forum Lane, Camana Bay,
P.O. Box 30239, Grand Cayman KY1-1201, Cayman Islands

ANNEX 2

DEFINITIONS AND INTERPRETATION

1. **DEFINITIONS**

In this Letter:

"**Acceding Obligor**" means a company which becomes an Obligor in accordance with sub paragraph 9.4 of paragraph 9 (*Acceding Lenders and Acceding Obligors*).

"**Agreed Discussions**" means any discussions entered into by any member of the Group with respect to Financial Indebtedness owing to one or more of its creditors, of which the Lenders are notified, such notification to include (to the extent not prohibited by law, regulation or the rules of any recognised stock exchange), in reasonable detail, the nature of the indebtedness concerned and any proposal made by any member of the Group to creditors thereunder including:

(a) the amount of Financial Indebtedness affected and its maturity;

(b) any Security for such Financial Indebtedness;

(c) the identity of the creditors in respect of such Financial Indebtedness; and

(d) where available, an overview of any firm proposals in respect of such Financial Indebtedness and timing for their implementation, including the manner in which such proposals will affect each of items (a) to (c) above.

"**Bridge Liquidity Facility**" means the secured bridge facility agreement dated 20 March 2009 between Cemex España, S.A. as borrower, Banco Bilbao Vizcaya Argentaria, S.A. as lender and agent and Banco Santander, S.A. as lender for an amount of USD 200,000,000 and an additional uncommitted amount of USD 100,000,000, raised to the status of public deed before the Notary of Madrid, Mr. Antonio Pérez Coca.

"**Committee Banks**" means the Committee Banks as defined in the Co-ordinator Letters.

"**Co-ordinators**" means Banco Bilbao Vizcaya Argentaria, S.A., Banco Santander, S.A., Citigroup Global Markets Limited, HSBC Bank plc and The Royal Bank of Scotland plc.

"**Co-ordinator Letters**" means the appointment letter entered into on or about the date of this Letter between CEMEX Parent, Cemex España, the Co-ordinators and the Committee Banks and the fee letter entered into on or about the date of this Letter between CEMEX Parent, Cemex España, the Co-ordinators and the Committee Banks.

"**Cross Default**" means, in respect of an Existing Facility, any Default (and for the avoidance of doubt, including in respect of derivatives transactions, any occurrence of any credit event, event of default or any additional termination event or similar event howsoever described) which would arise in respect of any member of the Group under such Existing Facility as a result of:

(a) any failure to pay any sums in respect of Financial Indebtedness falling due during the Relevant Period other than under such Existing Facility; or

(b) a declaration of any sum to be due and payable or any sum otherwise becoming due and payable prior to its specified maturity; or

(c) the occurrence of an event of default or mandatory prepayment event (however defined) or an event or circumstance which, with the expiry of a grace period or the giving of notice or the determination of materiality or otherwise or any combination of any of the foregoing would be such an event under the provisions of any agreement relating to Financial Indebtedness (other than such Existing Facility) which correspond to the Insolvency Clause, the Material Adverse Change Clause, the Related Representations or the Notification Clause by reason of events or circumstances described in the Presentations.

"**Default**" means, in respect of an Existing Facility, any event of default (howsoever defined) under such Existing Facility or any other event or circumstance which, with the expiry of a grace period or the giving of notice or the determination of materiality or otherwise or any combination of any of the foregoing would be such an event.

"**Derivatives Side Letter**" means the letter dated on or about the date of this Letter to CEMEX Parent and CEMEX España from certain members of the G12 and certain of their respective affiliates with respect to derivatives positions (as such letter may be amended from time to time).

"**Enforcement Action**" means (except to the extent permitted under this Letter):

(a) the acceleration of any Liabilities or any declaration that any Liabilities are prematurely due and payable or payable on demand;

(b) the taking of any steps to enforce or require the enforcement of any Security granted by any member of the Group (including the crystallisation of any floating charge forming part of any such Security or the blocking of any cash collateral account which, but for the occurrence of a Default, would not be blocked in accordance with the normal operation of the facility to which such cash collateral account relates);

(c) the making of any demand against any member of the Group in relation to any guarantee, indemnity or other assurance against loss in respect of any Liabilities or exercising any right to require any member of the Group to acquire any Liability (including exercising any put or call option against any member of the Group for the redemption or purchase of any Liability);

(d) the exercise of any right of set-off or direct debit against any member of the Group in respect of any Liabilities;

(e) the suing for, commencing or joining of any legal or arbitration proceedings against any member of the Group to recover any Liabilities;

(f) the entering into of any composition, assignment or arrangements with any member of the Group in respect of any Liability;

(g) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator or similar officer) in relation to the winding up, dissolution, administration or reorganisation prescribed by law of any member of the Group which owes any Liability,

or any analogous procedure or step in any jurisdiction.

"**Euro/Yen Facilities Agreement**" means the €250,000,000 and ¥19,308,000,000 term and revolving facilities agreement originally dated 30 March 2004 (as amended from time to time) and made between, among others, CEMEX España, S.A. as borrower, Banco Bilbao Vizcaya Argentaria, S.A. and Société Générale, S.A. as arrangers and Banco Bilbao Vizcaya Argentaria, S.A. as agent.

"**Euro/Yen Lender**" means a Lender as defined in the Euro/Yen Facilities Agreement.

"**Exempted Payment**" means any payment in respect of Financial Indebtedness which does not constitute a Termination Event under sub paragraph 3.4 of paragraph 3 (*Conditional Waivers and Extensions*).

"**Existing Facilities**" means each facility set out in Part A and Part B of Annex 3 (*Exposures*) (as updated from time to time in accordance with the terms of this Letter) to this Letter, which expression includes, in relation to each such facility, any reference to any guarantee or other credit support or Security granted by a member of the Group in respect of such facility.

"**Exposure**" means in respect of the claims of each Lender under a Relevant Existing Facility, the dollar equivalent of the aggregate amount of the claims of such Lender in respect of principal amounts outstanding under such Relevant Existing Facility calculated as at close of business on the Reference Date (on the assumption that all payments of principal under the Relevant Existing Facility are due and payable on such date) and:

(a) if a Lender has a contingent liability owed to a third party in relation to a Relevant Existing Facility then the principal amount of such Lender's claim in respect of principal amounts outstanding under such Relevant Existing Facility shall be the maximum amount for which that Lender is contingently liable; and

(b) in the case of an overdraft or revolving credit facility or another facility under which amounts remain available to be drawn the amount of the Lender's claim in respect of principal amounts outstanding shall be the aggregate of the amounts drawn and the amounts still available under such facility,

which, in the case of those Existing Facilities where a payment date is extended in accordance with sub paragraph 3.1 of paragraph 3 (*Conditional Waivers and Extensions*), are stated in Part A of Annex 3 (*Exposures*) (as updated from time to time in accordance with the terms of this Letter).

"**Extended Payment**" means, in respect of an Existing Facility, any payment due to a Lender under such Existing Facility, the payment date for which is extended pursuant to sub paragraph 3.1(a) of paragraph 3 (*Conditional Waivers and Extensions*) **provided that** in respect of any Existing Facility consisting of one or more derivatives transactions, such amount shall be equal to the net amount, if any, due to a Lender after the close out of all such derivatives transactions or any notes issued in connection therewith under the Derivatives Side Letter (after application of any collateral or margin held by such Lender).

"**Financial Creditor**" means a creditor in respect of Financial Indebtedness of any member of the Group.

"**Financial Indebtedness**" means any indebtedness (other than indebtedness incurred between members of the Group) for or in respect of, and without double counting:

(a) moneys borrowed and debit balances at banks or other financial institutions;

(b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);

(c) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(d) the amount of any liability in respect of any lease which would (in each case, as applicable), in accordance with international financial reporting standards and interpretations issued by the International Accounting Standards Board and adopted by the European Commission or, in accordance with generally accepted accounting principles or, in accordance with Mexican financial disclosure standards, be treated as a finance or capital lease;

(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);

(f) any interest rate or currency swap agreement or any other hedging or derivatives instrument or agreement (and, when calculating the value of such Financial Indebtedness, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of the relevant agreement or instrument, that amount) shall be taken into account);

(g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other equivalent instrument issued by a bank or financial institution;

(h) any hire purchase agreement, conditional sale agreement or lease, where that agreement has been entered into primarily as a method of raising finance or financing the acquisition of an asset;

(i) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing; and

(j) the amount of any liability in respect of any guarantee, indemnity or similar insurance against financial loss given in respect of the obligation of any person.

"**G12**" means, as at the date of this Letter, Australia and New Zealand Banking Group Limited, Banco Bilbao Vizcaya Argentaria, S.A., Banco Santander, S.A., Bank of America, Barclays Bank PLC, acting through its investment banking division Barclays Capital, BNP Paribas, Calyon, Citibank International plc, Sucursal en España, HSBC Bank plc, ING Bank N.V., J. P. Morgan Chase Bank N.A., Lloyds TSB Bank plc and The Royal Bank of Scotland plc and, after the date of this Letter, the G12 and such other financial institutions as may become members of the G12 (with notice of any such other financial institutions becoming members of the G12 to be sent promptly by the Co-ordinators to CEMEX Parent).

"**Group**" means CEMEX Parent and each of its Subsidiaries for the time being.

"**Holding Company**" means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

"**Illegality Clause**" means, in relation to an Existing Facility, a provision of such Existing Facility which requires mandatory repayment of amounts outstanding thereunder to a Lender as a result of any of the obligations of such Lender under such Existing Facility being unlawful.

"**Insolvency Clause**" means, in relation to an Existing Facility, a clause of such Existing Facility to the extent that it provides that any of the following events or circumstances (or any substantially equivalent events or circumstances) shall be an event of default in respect of CEMEX Parent or any other relevant member of the Group:

(a) being unable or admitting inability to pay debts when due by reason of actual or anticipated financial difficulties, announcing its intention to or suspending the making of payments in respect of debt or commencing negotiations with any of its creditors with a view to rescheduling indebtedness or proposing or entering into an arrangement, composition or compromise with, or assignment or proposition for, the benefit of one or more of its creditors;

(b) the value of the assets of CEMEX Parent, or the assets of any other relevant member of the Group, or the Group as a whole, being less than its liabilities (taking into account contingent and prospective liabilities);

(c) the declaration by any relevant authority or member of the Group of a moratorium in respect of the indebtedness of CEMEX Parent or any other relevant member of the Group;

(d) CEMEX Parent or any other relevant member of the Group being deemed insolvent, bankrupt, in *concurso mercantil* or in any similar legal state of existence howsoever defined as a matter of law in its jurisdiction of incorporation,

save to the extent that the same would constitute a Termination Event and **provided that**, for the avoidance of doubt, a clause of such Existing Facility is not an Insolvency Clause to the extent it provides that failure to make payments due under such Existing Facility is an event of default.

"**Insolvency Event**" means, in relation to any Obligor or Material Subsidiary:

(a) any resolution is passed or order or filing is made for its winding-up, dissolution, administration, *concurso mercantil, quiebra* or reorganisation;

(b) it assigns its assets for the benefit of its creditors generally or enters into any composition or arrangement with its creditors generally;

(c) the appointment of any liquidator, receiver, administrator, *conciliador*, administrative receiver, compulsory manager or other similar officer in respect of it or any of its assets;

(d) (i) in respect of any Obligor or Material Subsidiary to which the EC Regulation on Insolvency Proceedings 2000 applies, any corporate action, legal proceeding or other formal procedure or step is taken by such Obligor or Material Subsidiary with a view to commencing any "insolvency proceedings" within the meaning of the EC Regulation on Insolvency Proceedings 2000, and/or (ii) any corporate action, legal proceeding or other formal procedure or step is taken which has any of the consequences referred to in paragraphs (a) to (c) above in relation to any Obligor or Material Subsidiary;

(e) any event occurs in any country or territory in which it is incorporated or carries on business or to the jurisdiction of whose courts it is subject which corresponds in that country or territory with any of the events mentioned in paragraphs (a) to (c) (inclusive) above;

(f) any action by way of seizure, expropriation, nationalisation, intervention or any other proceeding having similar effect is taken by or on behalf of any governmental, regulatory or other authority or other person in relation to any Obligor or Material Subsidiary or any of its assets (save for assets which, in the reasonable opinion of a Lender, are not material); and

(g) any event specified in any of sub paragraphs 3.3(a) to 3.3(d) of paragraph 3 (*Conditional Waivers and Extensions*) occurs,

provided that the solvent liquidation or reorganisation of any Material Subsidiary which is not an Obligor shall not constitute an Insolvency Event so long as any payments or assets distributed as a result of such solvent liquidation or reorganisation are distributed to other members of the Group.

"**Lender Accession Letter**" means a letter substantially in the form of Annex 7 (*Form of Lender Accession Letter*").

"**Liabilities**" means all present or future, actual or contingent liabilities and obligations at any time of any member of the Group, and whether incurred solely or jointly or in any other capacity in respect of any Financial Indebtedness (other than Exempted Payments).

"**Material Adverse Change Clause**" means, in relation to an Existing Facility, a clause in such Existing Facility to the extent it provides that the occurrence of any event or circumstance which is a material adverse change, or which has or could have a material adverse effect (howsoever defined and taking into account any determination to be made by any person in relation thereto) (a " **Material Adverse Change Event**") on either the Group or any relevant Group member, including, without limitation, a material adverse change in financial condition or a material adverse effect (i) on its or their business, operations, property, condition or prospects or (ii) on its or their ability to comply with any obligations (payment or otherwise) under the Existing Facility shall be an event of default.

"**Material Subsidiary**" means any Subsidiary of CEMEX Parent which:

(a) has total assets representing 5% or more of the total consolidated assets of the Group; and/or

(b) has revenues representing 5% or more of the consolidated turnover of the Group,

(in each case calculated on a consolidated basis and determined by reference to the latest audited financial statements of that Subsidiary (consolidated in the case of a Subsidiary which itself has Subsidiaries) and the latest audited consolidated financial statements of the Group) and any Holding Company of any such Subsidiary (save unless such company is already an Obligor hereunder).

"**Notification Clause**" means, in relation to an Existing Facility, any requirements that CEMEX Parent or any other member of the Group notify:

(a) in relation to a syndicated facility, the facility agent, agent or equivalent;

(b) in relation to a bilateral facility, the lender under that facility; or

(c) in relation to a derivatives transaction, the counterparty (or counterparties),

of the occurrence of a Default.

"**Obligor**" means CEMEX Parent, CEMEX España and any Acceding Obligor.

"**Obligor Accession Letter**" means a letter substantially in the form of Annex 8 (*Form of Acceding Obligor Accession Letter*").

"**Participating Member State**" means any member state of the European Communities that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Community relating to Economic and Monetary Union.

"**Presentation**" means each of the presentations by CEMEX Parent to certain of its creditors at meetings in Madrid on 12 and 13 March 2009 as subsequently made available to Lenders in written form via a website (including, for the avoidance of doubt, written information given by CEMEX Parent or CEMEX España to the Co-ordinators (including via the legal advisers to the Co-ordinators)).

"**Reference Date**" means 24 March 2009.

"**Related Representation**" means, in relation to an Existing Facility, any representations given prior to or during the Relevant Period by CEMEX Parent and/or any relevant member of the Group under such Existing Facility to the effect that (a) no Default (howsoever defined) has occurred or is continuing, outstanding or subsisting (howsoever described) (i) under such Existing Facility or (ii) as a result of a member of the Group's failure to make payments in relation to Liabilities, under any material agreement binding upon the relevant member of the Group and/or (b) no Material Adverse Change Event (howsoever defined) has occurred or is continuing, outstanding or subsisting (howsoever described) under such Existing Facility.

"**Relevant Existing Facility**" means, in relation to a Lender, each Existing Facility to which such Lender is a party (being, for the avoidance of doubt, in respect of any Lender which is not a member of the G12, only those Existing Facilities which are listed in Part A of Annex 3 (*Exposures*) (as updated from time to time in accordance with the terms of this Letter)).

"**Relevant Insolvency Law**" means any insolvency, liquidation, *concurso mercantil*, *quiebra*, administration, moratorium, reorganisation, rehabilitation and similar laws generally affecting the rights of creditors applicable to a member of the Group, whether provisional, temporary or final and whether voluntary or involuntary.

"**Relevant Period**" means the period that starts on the Reference Date and ends on the earlier of:

(a) 6 pm Madrid time on 24 June 2009 **except that** where, on the date of this Letter, any Lender only has credit and other internal approvals to provide the extensions and waivers set out in sub paragraph 3.1 of paragraph 3 (*Conditional Waivers and Deferrals*) for a period starting on the Reference Date and ending prior to 24 June 2009, and such Lender has not, prior to the end of such lesser period confirmed to the Co-ordinators and CEMEX Parent that it has obtained credit and other internal approvals for a period ending on 24 June 2009, then the Relevant Period for the purposes of this paragraph (a) shall end on the date for which that Lender has obtained credit and other internal approvals (the " **End Date**") provided that such Lender shall notify the Co-ordinators and CEMEX Parent of such End Date not less than five days prior to such End Date (with a copy of such notice to be sent by the Co-ordinators to the Lenders);

(b) the date on which an agreement or agreements with respect to the restructuring of the Existing Facilities and facilities and financial accommodation provided by other financial creditors of the Group becomes effective; and

(c) the termination of the Relevant Period pursuant to sub paragraph 3.5 (or, with respect only to the relevant Terminating Lender and any relevant Further Terminating Lender, pursuant to sub-paragraph 3.6) of paragraph 3 (*Conditional Waivers and Extensions*).

"**Required Lenders**" means, in relation to any decision to be made under an Existing Facility by some or all lenders or counterparties (as the case may be) (a) in the case of a syndicated facility the relevant threshold of lenders required in respect of the relevant decision as determined pursuant to the terms of such Existing Facility, (b) in the case of a bilateral facility, the Lender under such bilateral facility and (c) in the case of a derivatives transaction, the counterparty or counterparties under such derivatives transaction.

"**RMC Facilities Agreement**" means the US$2,300,000,000 revolving credit facilities agreement originally dated 24 September 2004 (as amended and/or restated from time to time) between CEMEX España as borrower, Banco Bilbao Vizcaya Argentaria, S.A., Banco Santander, S.A., Calyon Corporate and Investment Bank and Citigroup Global Markets Limited as arrangers and joint book runners, Citibank International plc as agent and the financial institutions named therein as lenders.

"**RMC Lender**" means a Lender as defined in the RMC Facilities Agreement.

"**Security**" means a mortgage, charge, pledge, lien, assignment or other security interest securing any payment obligation of any person or any other agreement or arrangement having a similar effect.

"**Soft Facility**" means an Existing Facility to the extent that it provides for the issuance of documentary credits (including letters of credit), or performance, advance payment or other similar bonds, bank guarantees, stand by letters of credit or similar instruments.

"**Subsidiary**" means in relation to any company or corporation, a company or corporation:

(a) which is controlled, directly or indirectly, by the first mentioned company or corporation;

(b) more than half the issued share capital of which is beneficially owned, directly or indirectly by the first mentioned company or corporation; or

(c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

"**Subsidiary Obligors**" means each company named in Annex 1 (*Subsidiary Obligors*).

"**Waiver Limit**" means, in respect of an Existing Facility, the aggregate amount of a Lender's Exposure or, as the case may be, the Lenders' Exposures, under that Existing Facility as at close of business on the Reference Date.

2. **CONSTRUCTION**

2.1 Any reference in this Letter to:

(a) any "**Lender**" shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

(b) an agreement shall be construed as a reference to that agreement as amended, novated, supplemented or restated from time to time;

(c) "**assets**" includes present and future properties, revenues and rights of every description;

(d) a "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing;

(e) a provision of law is a reference to that provision as amended or re-enacted;

(f) "**$**", "**USD**", "**US dollars**" or "**dollars**" denotes the lawful currency of the United States of America, "**€**", "**EUR**" and "**euro**" means the single currency unit of the Participating Member States, and "**¥**", "**JPY**" and "**yen**" denotes the lawful currency of Japan; and

(g) the singular shall include the plural and vice versa.

2.2 Paragraph and Annex headings are for ease of reference only.

2.3 A person who is not a party to this Letter has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Letter.

ANNEX 3
EXPOSURES

Exchange Rate EUR 1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
BANK OF AMERICA NA, SUCURSAL EN ESPANA	US$ 2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	17,976,618	17,976,618
BANK OF AMERICA NA	Several Stand By Letters of Credit issued by Bank of America, N.A.	USD	8,720,117	8,720,117
BANK OF AMERICA, NA	Net amount of closed out derivatives*	USD	4,093,054	4,093,054
	*Derivatives:			
	IRS (ISDA Master Agreement dated: August 17th, 1998)			
	IRS (EUR) (ISDA Master Agreement dated: August 17th, 1998)			
	CAP (ISDA Master Agreement dated: August 17th, 1998)			
	CAP (EUR) (ISDA Master Agreement dated: August 17th, 1998)			
	FLOOR (ISDA Master Agreement dated: August 17th, 1998)			
	CCS (ISDA Master Agreement dated: August 17th, 1998) FX DSP (ISDA Master Agreement dated: August 17th, 1998)			

Part B

Lender	Facility/Derivative	Currency
BANK OF AMERICA NA, SUCURSAL EN ESPANA	US$6,000,000,000 (originally US$9,000,000,000) Acquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD

BANK OF AMERICA NA	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	USD
BANK OF AMERICA, NA	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
BANK OF AMERICA, N.A.		
BANK OF AMERICA, N.A. - San Fran Branch	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD

Exchange Rate	JPY	98,43
	GBP	1,431
	EUR	1,274

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
The Royal Bank of Scotland plc	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	50,750,000	50,750,000
The Royal Bank of Scotland plc	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	1,918,243,896	19,488,407

Part B

Lender	Facility/Derivative	Currency
THE ROYAL BANK OF SCOTLAND	U$$6,000,000,000 (originally U$$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	GBP
THE ROYAL BANK OF SCOTLAND PLC	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	USD
THE ROYAL BANK OF SCOTLAND PLC	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
THE ROYAL BANK OF SCOTLAND PLC	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
The Royal Bank of Scotland PLC	US$1,050,000,000 Senior Unsecured Dutch Loan “A & 8” Agreement dated 2 June, 2008	USD
National Westminster Bank plc	Multi Line Facility	USD

	Derivatives:	
The Royal Bank of Scotland PLC	IRS (EUR) (ISDA Master Agreement dated: April 22nd, 2005)	EUR
The Royal Bank of Scotland PLC	IRS (JPY) (ISDA Master Agreement dated: April 22nd, 2005)	JPY
The Royal Bank of Scotland PLC	CAP (ISDA Master Agreement dated: April 22nd, 2005)	USD
The Royal Bank of Scotland PLC	CAP (EUR) (ISDA Master Agreement dated: April 22nd, 2005)	EUR
The Royal Bank of Scotland PLC	FLOOR (ISDA Master Agreement dated: April 22nd, 2005)	USD
The Royal Bank of Scotland PLC	CCS (ISDA Master Agreement dated: April 22nd, 2005)	USD
The Royal Bank of Scotland PLC	FX-FWD (ISDA Master Agreement dated: April 22nd, 2005)	USD
The Royal Bank of Scotland PLC	FX DSP (ISDA Master Agreement dated: April 22nd, 2005)	USD

Exchange Rate	JPY	98,43
	EUR	1,274

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
BNP Paribas	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	58,250,000	58,250,000
BNP Paribas	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	1,918,243,896	1,918,243,896
BNP Paribas	US$37,500,000 Loan Facility Agreement BNP Paribas (Sydney Branch) dated 1 October, 2007	USD	37,500,000	37,500,000
BNP Paribas	Cash management lines	EUR	21,930,000	21,930,000

Part B

Lender	Facility/Derivative	Currency
BNP Paribas	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
BNP Paribas	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	EUR
BNP Paribas	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
BNP Paribas	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
BNP Paribas	US$700,000,000 syndicated facility, guarantees by CEMEX, CEMEX Mexico, Empresas Tolteca	USD

BNP Paribas	EPS (Quarry Bonds)	EUR
BNP Paribas	Util Ligne Glob EPS	EUR
	Derivatives:	
BNP Paribas	COMMODITIES-FWD (1SDA Master Agreement dated: October 8th 2001)	EUR
BNP Paribas	IRS (ISDA Master Agreement dated: October 8th, 2001)	USD
BNP Paribas	IRS (EUR) (ISDA Master Agreement dated: October 8th, 2001)	EUR
BNP Paribas	IRS (JPY) (1SDA Master Agreement dated: October 8th, 2001)	JPY
BNP Paribas	CAP (ISDA Master Agreement dated: October 8th, 2001)	USD
BNP Paribas	CAP (EUR) (ISDA Master Agreement dated: October 8th, 2001)	EUR
BNP Paribas	FLOOR (ISDA Master Agreement dated: October 8th, 2001)	USD
BNP Paribas	FX-FWD (ISDA Master Agreement dated: October 8th, 2001)	USD

Exchange Rate	JPY	98.43
	EUR	1.2744
	MXN	15.26
	AED	3.6732
	EGP	5.5973

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
HSBC BANK PLC, MADRID	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	45,750,000	45,750,000
HSBC BANK PLC, MADRID	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	1,918,243,896	19,488,407

Part B

Lender	Facility/Derivative	Currency
HSBC BANK PLC, SUCURSAL EN ESPAÑA	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
HSBC BANK, PLC SUCURSAL EN ESPAÑA	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	EUR
HSBC SECURITIES (USA) INC., HSBC MEXICO S.A. INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	MXN
HSBC MEXICO SA INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD

HSBC BANK PLC - Madrid Branch	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
HSBC México, S.A., Institución de Banca Multiple, Grupo Financiero HSBC, acting through its Grand Cayman Branch	US$1,050,000,000 Senior Unsecured Dutch Loan “A & B” Agreement dated 2 June, 2008	USD
HSBC México, S.A., Institución de Banca Multiple, Grupo Financiero HSBC	Factoring (Cadenas Productivas)	MXN
HSBC México, S.A., Institución de Banca Multiple, Grupo Financiero HSBC	Overdraft (CEMEX Mexico)	MXN
HSBC MEXICO SA INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC	Overdraft (Empresas Tolteca)	MXN
HSBC MEXICO SA INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC	Overdraft (Petrocemex)	MXN
HSBC Bank plc	Asset Finance Leasing (CEMEX UK)	GBP
HSBC Bank plc	Debtors financing (CEMEX UK)	GBP

HSBC Bank plc	Credit cards (CEMEX UK)	GBP
HSBC Argentina	Leasing (Neoris Consulting)	ARS
HSBC BANK EGYPT S.A.E	Guarantee Line (Assuit Cement)	EGP
HSBC BANK EGYPT S.A.E	Overdraft (Assuit Cement)	EGP
HSBC BANK EGYPT S.A.E	Credit cards(Assuit Cement)	EGP
HSBC BANK EGYPT S.A.E	Overdraft (Cemex Ready Mix)	EGP
HSBC BANK EGYPT S.A.E	Guarantee (Cemex Ready Mix)	EGP
HSBC Bank Middle East Limited	Suppliers credit (RMC Topmix)	AED
HSBC Bank Middle East Limited	Overdraft (RMC Topmix)	AED
HSBC Bank Middle East Limited	Guarantees (RMC Topmix/Falcon/Supermix)	AED
HSBC Bank Middle East Limited	Trade line (RMC Topmix)	AED
HSBC Bank Middle East Limited	Credit cards (RMC Topmix)	AED
HSBC Bank Middle East Limited	FEX Line (RMC Topmix)	AED
HSBC Panama	Credit Cards (CEMEX Caribe)	USD
HSBC Mexico, S.A., Institucion de Banca Multiple, Grupo Financiero HSBC	CCS (ISDA Master Agreement dated: January 28 th, 2005)	USD
HSBC Mexico, S.A., Institucion de Banca Multiple, Grupo Financiero HSBC	FX-FWD (ISDA Master Agreement dated: January 28 th, 2005)	USD
HSBC Mexico, S.A., Institucion de Banca Multiple, Grupo Financiero HSBC	FX DSP (ISDA Master Agreement dated: January 28 th, 2005)	USD
HSBC Mexico, S.A., Institucion de Banca Multiple, Grupo Financiero HSBC	IRS (JPY) (ISDA Master Agreement dated: January 28 th, 2005)	JPY

HSBC Bank, USA, National Association	CAP (ISDA Master Agreement dated: February 2 nd, 2005)	USD
HSBC Bank, USA, National Association	FLOOR (ISDA Master Agreement dated: February 2 nd, 2005)	USD
HSBC Bank, USA, National Association	CCS (ISDA Master Agreement dated: February 2 nd, 2005)	USD
HSBC Bank, USA, National Association	FX-FWD (ISDA Master Agreement dated: February 2 nd, 2005)	USD
HSBC Bank, USA, National Association	IRS (ISDA Master Agreement dated: February 2 nd, 2005)	EUR
HSBC Bank, USA, National Association	CAP (ISDA Master Agreement dated: February 2 nd, 2005)	EUR
HSBC Bank, USA, National Association	CCS Perpetual Debentures ISDA Master Agreement May 3 rd, 2007	EUR
HSBC Bank, USA, National Association	IRS (JPY) (ISDA Master Agreement dated: October 8 th, 2001) (ISDA Master Agreement dated: February 2nd, 2005)	JPY

Exchange Rate	JPY	98.43
	EUR	1.2744
	MXN	15.26

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
Banco Santander S.A.	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	59,154,817	59,154,817
Banco Santander S.A.	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	1,918,243,896	19,488,407

Part B

Lender	Facility/Derivative	Currency
BANCO SANTANDER, S.A.	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
BANCO SANTANDER S.A.	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	EUR
BANCO SANTANDER S.A.	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	USD
SANTANDER OVERSEAS BANK INC	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	MXN

SANTANDER INVESTMENTS SECURITIES INC,	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	USD
BANCO SANTANDER CENTRAL HISPANO S.A. NEW YORK BRANCH	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
BANCO SANTANDER CENTRAL HISPANO, SA NEW YORK BRANCH	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
Banco Santander S.A.	US$1,050,000,000 Senior Unsecured Dutch Loan “A & B” Agreement dated 2 June, 2008	USD
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	TRADE LINE HOLDING	MXN
Banco Santander S.A.	Renting	EUR
Banco Santander S.A.	Guarantees	EUR
Banco Santander S.A.	Confirming	EUR
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	Leasing	MXN
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	Confirming	MXN
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	Corporate Bonds	MXN

BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	Corporate Loan	MXN
Banco Santander Colombia	Working Capital Facilities	COP
Banco Santander Rio	Working Capital Facilities	AR$
BANCO SANTANDER, S.A.	Several Stand By Letters of Credit issued by Banco Santander, S.A.	USD

	Derivatives: Transaction N°	Transaction	Transaction Date	
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	9313571	Caps/Floors	8/21/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974942	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974943	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974944	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974945	EQD OTC Options	6/6/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974948	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974949	EQD OTC Options	6/12/2008	USD

Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974951	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974953	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974956	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974965	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10975124	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10975176	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	9802032	Equity Forwards	10/13/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	9802069	Equity Forwards	10/13/2008	USD

Exchange Rate	JPY	98.43
	EUR	1.2744
	MXN	15.26

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
Banco Santander S.A.	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	59,154,817	59,154,817
Banco Santander S.A.	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	1,918,243,896	19,488,407

Part B

Lender	Facility/Derivative	Currency
BANCO SANTANDER, S.A.	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
BANCO SANTANDER S.A.	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	EUR
BANCO SANTANDER S.A.	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	USD
SANTANDER OVERSEAS BANK INC	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	MXN
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	MXN
SANTANDER INVESTMENTS SECURITIES INC,	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	USD
BANCO SANTANDER CENTRAL HISPANO S.A. NEW YORK	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
BANCO SANTANDER CENTRAL HISPANO, SA NEW YORK BRANCH	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD

Banco Santander S.A.	US$1,050,000,000 Senior Unsecured Dutch Loan “A & B” Agreement dated 2 June, 2008	USD
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	TRADE LINE HOLDING	MXN
Banco Santander S.A.	Renting	EUR
Banco Santander S.A.	Guarantees	EUR
Banco Santander S.A.	Confirming	EUR
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	Leasing	MXN
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	Confirming	MXN
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	Corporate Bonds	MXN
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	Corporate Loan	MXN
Banco Santander Colombia	Working Capital Facilities	COP
Banco Santander Rio	Working Capital Facilities	AR$
BANCO SANTANDER, S.A.	Several Stand By Letters of Credit issued by Banco Santander, S.A.	USD

	Derivatives: Transaction N°	Transaction	Transaction Date	Currency
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	931571	Caps/floors	8/21/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974942	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974943	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974944	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974945	EQD OTC Options	6/6/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974948	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974949	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974951	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974953	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974956	EQD OTC Options	6/3/2008	USD

Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974965	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10975124	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10975176	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	9802032	Equity Forwards	10/13/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	9802069	Equity Forwards	10/13/2008	USD

Exchange Rate	JPY	98.43
	EUR	1.2744
	MXN	15.26
	COP	2555.89

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
Banco Bilbao Vizcaya Argentaría, S.A.	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	90,585,129	90,585,129
Banco Bilbao Vizcaya Argentaría, S.A.	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	2,920,782,887	2,920,782,887

Part B

Lender	Facility/Derivative	Currency
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	EUR
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	EUR
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
BBVA BANCOMER, S.A., INSTITUCION DE BANCA MULTIPLE GRUPO FINANCIERO BBVA BANCOMER	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	MXN

BBVA BANCOMER, S.A., INSTITUCION DE BANCA MULTIPLE GRUPO FINANCIERO BBVA BANCOMER	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	USD
BBVA BANCOMER, S.A., INSTITUCION DE BANCA MULTIPLE GRUPO FINANCIERO BBVA-BANCOMER	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
BANCO BILBAO VIZCAYA ARGENTARIA S.A.	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
BANCO BILBAO VIZCAYA ARGENTARIA PUERTO RICO	US$30,000,000 CEMEX de Puerto Rico, Inc. Credit Agreement dated 31 August, 2005	USD
BBVA FACTORING E.F.C., S.A.	Contrato de Confirming del 14 de Enero del 2000 (EUR 30,000,000)	EUR
BBVA FACTORING E.F.C., S.A.	Contrato de Factoring (EUR 20,000,000)	EUR
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	Gestion de Cartera (EUR 8,000,000)	EUR
BBVA Colombia S.A.	COP20,000,000,000 CEMEX Colombia S.A. Pagaré al 16 Mayo, 2007	COP
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	Stand By Letters of Credit and Bank Guarantee issued by Banco Bilbao Vizcaya Argentaria, S.A. (EUR 15,000,000)	EUR
BANCO BILBAO VIZCAYA ARGENTARIA, S.A., NEW YORK BRANCH	US$500,000,000 Pez Loan with CEMEX,S.A.B. de C.V. dated 25 June 2008, as further amended	USD
BANCO BILBAO VIZCAYA ARGENTARIA, S.A., NEW YORK BRANCH	Stand By Letters of Credit (US$57,024,753)	USD
BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	IRS (ISDA Master Agreement dated: March 15 th 2006)	USD
BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	IRS (EUR) (ISDA Master Agreement dated: March 15 th 2006)	EUR

BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	IRS (JPY) (ISDA Master Agreement dated: March 15 th 2006)	JPY
BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	CAP(ISDA Master Agreement dated: March 15 th 2006)	USD
BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	CAP (EUR) (ISDA Master Agreement dated: March 15 th 2006)	EUR
BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	FLOOR (ISDA Master Agreement dated: March 15 th 2006)	USD
BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	CCS (ISDA Master Agreement dated: March 15 th 2006)	USD
BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	FX-FWD (ISDA Master Agreement dated: March 15 th 2006)	USD
BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	EQUITY (Confirmation between CEDICE and BBVA Bancomer, S.A. dated March 13, 2009)	USD

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
BARCLAYS BANK PLC, MIAMI	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	38,549,118	38,549,118

Part B

Lender	Facility/Derivative	Currency
BARCLAYS BANK PLC	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
BARCLAYS BANK PLC	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
Barclays Bank PLC	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
BARCLAYS BANK PLC	Environmental Bond issued by Barclays Bank PLC (with CEMEX UK Operations Limited as the borrower)	USD
Barclays Bank PLC	CAP (ISDA Master Agreement dated: December 9th, 2002)	USD
Barclays Bank PLC	CCS Perpetual Debentures (ISDA Master Agreement dated February 6th, 2007)	USD
Barclays Bank PLC	FX DSP (ISDA Master Agreement dated: December 9th, 2002)	USD

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
JPMORGAN CHASE BANK N.A., SUCURSAL EN ESPAÑA	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	50,750,000	50,750,000

Part B

Lender	Facility/Derivative	Currency
JPMORGAN CHASE BANK N.A., SUCURSAL EN ESPAÑA	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
JPMORGAN CHASE BANK, N.A.	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
JPMORGAN CHASE BANK, N.A.	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
JPMORGAN CHASE BANK, N.A.	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
JPMORGAN CHASE BANK, N.A.	$20,000,000 promissory note due April 17, 2009 (cash collateral to be applied) representing closed out derivatives	USD
JPMORGAN CHASE BANK, N.A.	$45,000,000 promissory note due April 17, 2009 (no collateral) representing closed out derivates	USD
JPMORGAN CHASE BANK, N.A.	Various lines of credit	USD
JPMORGAN CHASE BANK, N.A.	US$80,000,000 bilateral agreement with Cemex Materials maturing April 1, 2011	USD
JPMORGAN CHASE BANK, N.A.	US$90,000,000 bilateral agreement with Cemex Materials maturing February 28, 2011	USD
JPMORGAN CHASE BANK, N.A.	$65,000,000 SBLC	USD

JPMORGAN CHASE BANK, N.A.	Several other Stand By Letters of Credit	USD
JPMORGAN CHASE BANK, N.A.	CCS Perpetual Debentures (c5) ISDA Master Agreement dated December 11 th , 2006	USD
JPMORGAN CHASE BANK, N.A.	CCS Perpetual Debentures (c10) ISDA Master Agreement dated December 11 th , 2006	USD

Exchange Rate	JPY	98.43
	MXN	15.26
	EUR	1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CITIBANK NA, NEW YORK	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	45,585,129	45,585,129
CITIBANK NA, NEW YORK	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	865,709,523	8,795,180

Part B

Lender	Facility/Derivative	Currency
CITIBANK INTERNATIONAL PLC, SUCURSAL EN ESPAÑA	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
CITIBANK, N.A. NASSAU BAHAMAS BRANCH	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
CITIBANK (BANAMEX USA)	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	MXN
CITIBANK, N.A. NASSAU BAHAMAS BRANCH, CITIGROUP GLOBAL MARKETS INC	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	USD
CITIBANK N.A. NASSAU, BAHAMAS BRANCH	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
Citibank N.A., Nassau Bahamas Branch	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
Citibank, N.A.	Several Bank Guarantees issued by Citibank	USD

	Derivatives:	
Citigroup Global Markets Inc as agent for Citibank, N.A.	EQ (ISDA Master Agreement dated: April 23rd, 2008)	USD
Citibank, N.A. NEW YORK	IRS (ISDA Master Agreement dated: July 3 rd, 2002)	USD
Citibank, N.A. NEW YORK	CAP (ISDA Master Agreement dated: July 3 rd, 2002)	USD
Citibank, N.A. NEW YORK	FLOOR (ISDA Master Agreement dated: July 3 rd, 2002)	USD
Citibank, N.A. NEW YORK	CCS (ISDA Master Agreement dated: July 3 rd, 2002)	USD
Citibank, N.A. NEW YORK	FX-FWD (ISDA Master Agreement dated: July 3 rd, 2002)	USD
Citibank, N.A. NEW YORK	IRS (ISDA Master Agreement dated: July 3 rd, 2002)	JPY

Exchange Rate	JPY	98.43
	EUR	1.2744
	GBP	1.4314
	PLN	3.655
	MXN	15.26

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
ING Belgium SA, Sucursal en España	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	29,700,458	29,700,458
ING Belgium SA, Sucursal en España	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	1,918,243,896	19,488,407
ING Bank (México, S.A., Institución de Banca Multiple)	MXN 447,202,272.50 Promissory Note maturing on 17 April 2009 from CEMEX, S.A.B. de C.V.	MXN	447,202,273	

Part B

Lender	Facility/Derivative	Currency
ING BELGIUM S.A. SUCURSAL EN ESPAÑA	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
ING BELGIUM S.A. SUCURSAL EN ESPAÑA	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	EUR
ING BANK N.V.	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
ING BANK, N.V. (ACTING THROUGH ITS CURACAO BRANCH)	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
ING Bank NV-Willemstad Branch	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD

ING Bank, N.V., acting through its Curacao Branch	US$1,050,000,000 Senior Unsecured Dutch Loan “A & B” Agreement dated 2 June, 2008	USD
ING Lease Flet Fianance LTD	Financing Leases	GBP
ING Bank Slaski S.A.	Facility Agreement	PLN
ING Bank, N.V.	Several Bank Guarantees issued by ING Bank	PLN

Exchange Rate EUR 1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CALYON NEW YORK BRANCH	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	59,154,817	59,154,817

Part B

Lender	Facility/Derivative	Currency
CALYON	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
CALYON SUCURSAL EN ESPAÑA	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
CALYON NEW YORK BRANCH	US$700,000,000 Term and Revolving Facilities dated 27 June, 2005	USD
Caisse Régionale de Crédit Agricole Mutuel du Gard	BANK LOAN	EUR
CALYON NEW YORK BRANCH	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
CALYON	IRS (ISDA Master Agreement dated: December 8 th, 2006)	USD
CALYON	CAP (ISDA Master Agreement dated: December 8 th, 2006)	EUR

Exchange Rate EUR 1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
DEUTSCHE BANK LUXEMBOURG S.A.	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	11,104,669	11,104,669

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
SCOTIABANK EUROPE, PLC, LONDON	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	24,141,450	24,141,450

Part B

Lender	Facility/Derivative	Currency

Exchange Rate	JPY	98.43
	EUR	1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$))
FORTIS BANK, MADRID	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	64,000,000	64,000,000
FORTIS BANK, MADRID	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	591,307,500	6,007,391

Part B

Lender	Facility/Derivative	Currency

Exchange Rate	EUR	1.2744
	GBP	1.4314

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
LLOYDS TSB BANK, PLC	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	28,645,956	28,645,956

Part B

Lender	Facility/Derivative	Currency
LLOYDS TSB BANK, PLC	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
LLOYDS TSB BANK PLC	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
LLOYDS TSB BANK PLC, SUCURSAL EN ESPAÑA	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	EUR
LLOYDS TSB BANK PLC	Asset Finance Lesing (CEMEX UK)	GBP
LLOYDS TSB BANK PLC	Asset Finance Lesing (CEMEX France)	EUR
LLOYDS TSB COMMERCIAL FINANCE LTD	Supplier Finance (CEMEX UK)	GBP

Exchange Rate	USD	98.43
	EUR	1.2774

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
SOCIETE GENERALE, NEW YORK	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	10,000,000	10,000,000
SOCIETE GENERALE, NEW YORK	Euro 250,000,000 and JPY 19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	2,368,202,341	24,059,762

Part B

Lender	Facility/Derivative	Currency
SOCIETE GENERALE		
SOCIETE GENERALE		
SOCIETE GENERALE		
SOCIETE GENERALE SA		
SOCIETE GENERALE SA		
Societe Generale Equipment Finance Sp. z o.o		
Societe Generale – Splitska banka d.d.		
SOCIETE GENERALE		

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
BANK OF TOKYO-MITSUBISHI UFG LTD.; SUCURSAL EN ESPAÑA	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	11,100,000	11,100,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate EUR 1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
INTESA SAN PAOLO SPA	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	19,445,000	19,445,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
INSTITUTO DE CREDITO OFICIAL	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	62,500,000	62,500,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate MXN 15.26

EUR 1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
WEST LB AG, SUCURSAL EN ESPAÑA	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	50,750,000	50,750,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate EUR 1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CAJA MADRID	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	13,572,500	13,572,500

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)

Part B

Lender	Facility/Derivative	Currency
ABN AMRO Bank N.V.	FX-FWD (ISDA Master Agreement dated May 14 th, 2008)	USD

Exchange Rate	JPY	98.43
	EUR	1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
'BANCO ESPAÑOL DE CRÉDITO, S.A. MADRID- Banesto	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	50,750,000	50,750,000
'BANCO ESPAÑOL DE CRÉDITO, S.A. MADRID- Banesto	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	2,970,778,269	30,181,634

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CAJA DE AHORROS DE GALICIA	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	5,000,000	5,000,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CAISSE REGIONALE DE CREDIT AGRICOLE MUTUEL DE PARIS ET D'ILE-DE-FRANCE	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	20,000,000	20,000,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

TOTAL EXPOSURE DEFERRED	**USD**	**165,700,000.00**
	AUD	**37,083,869.33**

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender
Australia and New Zealand Banking Group Limited	US$150,000,000 Loan Facility Agreement from Australia and New Zealand Banking Group Limited dated 19 March, 2009	USD	150,000,000.00	
Australia and New Zealand Banking Group Limited	Standby Letter of Credit for the account of CEMEX, Inc. / CEMEX Materials LLC	USD	1,750,000.00	
Australia and New Zealand Banking Group Limited	Standby Letter of Credit for the account of CEMEX, Inc. / CEMEX Materials LLC	USD	13,950,000.00	USD 165,700,000.00
Australia and New Zealand Banking Group Limited	AUS$4,000,000 Credit Cards Limit to Cemex Australia Pty Limited (AUS$515,832.22 outstanding as of March 19, 2009)	AUD	515,832.22	
			Outstanding as of March 19, 2009	
Australia and New Zealand Banking Group Limited	AUS$36,570,000.00 Indemnity Guarantee facilities (for performance, workmen's comp, and financial guarantees) to Cemex Australia Pty Limited and Rinker Group Pty LTd (AUS$35,818,037.11 and AUS$750,000.00 outstanding)	AUD	36,568,037.11	AUD 37,083,869.33
			Outstanding as of March 19, 2009	

Part B

Lender	Facility/Derivative	Currency	Exposure Original CCY

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
BAYERISCHE LANDESBANK	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	22,209,338	22,209,338

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CENTROBANCA - BANCA DE CREDITO	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	25,000,000	25,000,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	20,000,000	20,000,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate EUR 1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
BRED BANQUE POPULAIRE	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	17,500,000	17,500,000

Part B

Lender	Facility/Derivative	Currency

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CAJA DE AHORROS DE ASTURIAS	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	8,100,000	8,100,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
DRESDNER BANK AG	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	10,000,000	10,000,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
IKB International S.A.	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	9,975,000	9,975,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate EUR 1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
UNICREDIT S.P.A.	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	20,000,000	20,000,000

Part B

Lender	Facility/Derivative	Currency

ANNEX 4
CONDITIONS PRECEDENT

(a) Receipt by the Co-ordinators of supporting corporate authorities (including board resolutions or equivalent, powers of attorney and copies of constitutional documents) in relation to the execution of this Letter by CEMEX Parent and CEMEX España.

(b) Execution of the Co-ordinator Letters by CEMEX Parent and CEMEX España and each of the Co-ordinators and payment of any fees due thereunder (including, without limitation, legal fees).

(c) Execution of this Letter by each of the G12 and each RMC Lender (or such of the same as the G12 may determine in their absolute discretion).

ANNEX 5
TERMINATION EVENTS

(a) An Insolvency Event occurs in relation to CEMEX Parent or any Obligor.

(b) There is any breach of any of the terms of this Letter, the Derivatives Side Letter or of any term of the Co-ordinators Letters by CEMEX Parent or any Obligor or CEMEX Parent fails to procure compliance by each member of the Group with the terms of this Letter, of the Derivatives Side Letter or of the Co-ordinators Letters as if such member of the Group were a party thereto.

(c) Any Financial Creditor makes a demand for, accepts payment or discharge of or declares any Financial Indebtedness (or any other off balance sheet liabilities in the nature of Financial Indebtedness) of any member of the Group due and payable prior to its maturity or makes election for the application of, or applies, funds in the accounts of any member of the Group towards discharge of any Liabilities under any Financial Indebtedness (whether by way of payment or set off or otherwise) except for:

(i) a repayment of principal to a Financial Creditor pursuant to the operation of a provision which requires mandatory repayment of amounts outstanding thereunder to such Financial Creditor as a result of any of the obligations of such Financial Creditor under any Financial Indebtedness being unlawful;

(ii) a repayment or discharge in the normal course of operating any overdraft facility (including any overdraft facilities or promissory note created upon crystallisation of any Soft Facility) or allowing a rollover of any revolving facility;

(iii) payment of any amount which has matured or otherwise fallen due under a Soft Facility or any public debt instrument denominated in Mexican pesos;

(iv) payments from any other creditor under the same facility pursuant to any pro rata sharing provisions contained therein;

(v) the following scheduled payments (expressed as amounts converted into US dollars by CEMEX Parent with a conversion date of 4 March 2009):

(1) a payment in an amount of US$ equivalent 14,426 to Kreissparkasse Herzogtum Lauenburg falling due on 30 March 2009;

(2) a payment in an amount of US$ equivalent 127,371 to Dragan Majetić, Croatia falling due on 31 March 2009;

(3) a payment in an amount of US$ equivalent 4,000,000 to Banco de Oro Universal Bank, the Philippines, falling due on 20 April 2009;

(4) a payment in an amount of US$ equivalent 4,000,000 to Banco de Oro Universal Bank, the Philippines, falling due on 20 April 2009;

(5) a payment in an amount of US$ equivalent 5,868,797 to Banco de Occidente, falling due on 21 April 2009;

(6) a payment in an amount of US$ equivalent 4,049,470 to Banco de Crédito Colombia, falling due on 27 April 2009;

(7) a payment in an amount of US$ equivalent 5,868,797 to Banco Occidente, S.A., Colombia, falling due on 27 April 2009;

(8) a payment in an amount of US$ equivalent 4,049,470 to Banco de Crédito, Colombia, falling due on 28 April 2009;

(9) a payment in an amount of US$ equivalent 9,781,329 to Banco de Bogotá, S.A., Colombia, falling due on 6 May 2009;

(10) a payment in an amount of US$ equivalent 43,908 to Banque Populaire Lorraine Champagne, falling due on 6 May 2009;

(11) a payment in an amount of US$ equivalent 1,264,400 to Banco León, Dominican Republic, falling due on 12 May 2009;

(12) a payment in an amount of US$ equivalent 2,809,778 to Banco León, Dominican Republic, falling due on 13 May 2009;

(13) a payment in an amount of US$ equivalent 2,809,778 to Banco León, Dominican Republic, falling due on 14 May 2009;

(14) a payment in an amount of US$ equivalent 4,214,667 to Banco Popular, Dominican Republic, falling due on 15 May 2009;

(15) a payment in an amount of US$ equivalent 4,214,667 to Banco Popular, Dominican Republic, falling due on 15 May 2009; and

(16) a payment in an amount of US$8,000,000 to Banco de América Central, Guatemala, falling due on 1 June 2009;

(vi) other than with respect to a Lender under a Relevant Existing Facility, any payment not permitted by the preceding paragraphs in an amount which does not exceed US$15,000,000 in respect of any individual facility or transaction arising in the ordinary course of day to day operational activities;

(vii) any net balance resulting from the close-out of derivative transactions in accordance with their terms where settlement of such net balance is deferred in accordance with sub paragraph 3.1(a) of paragraph 3 (Conditional Waivers and Extensions);

(viii) prior to any agreement relating to the treatment of the securitisation programmes of the Group (and it is the intention of CEMEX Parent, the Co-ordinators and the relevant Lenders associated with such programmes to commence discussions with respect to the treatment of such programmes as soon as appropriate), the making of any payments by a member of the Group pursuant to the following securitisation programmes:

(1) the securitisation programme having a maturity date of 31 May 2009 and maximum funding amount of EUR 160,000,000, in respect of receivables, made pursuant to a transfer agreement (as amended, restated, supplemented or otherwise modified from time to time) by and among Cemex France Finance SAS, RMC France SAS and ING Belgium S.A. Succursale en France and pursuant to the related documents executed in connection therewith and with a guarantee provided by Cemex España;

(2) the securitisation programme in respect of receivables and certain related assets pursuant to an amended and restated receivables assignment agreement dated as of 9 May 2006 (as the same may be amended, restated, supplemented or otherwise modified from time to time) by and among CEMEX España and certain of its Spanish Subsidiaries, and Compass Traderec V L.L.C., and WestLB AG;

(3) the securitisation programme in respect of receivables and certain related assets pursuant to a loan agreement dated as of 9 January 2008 (as the same may be amended, restated, supplemented or otherwise modified from time to time) by and among HSBC Mexico, S.A., Institución de Banca Múltiple, Grupo Financiero HSBC, División Fiduciaria not in its individual capacity, but solely as trustee and for the account of the MTY-2008 Receivables Trust under the MTY-2008 Receivables Trust Agreement, CEMEX MEXICO, S.A. DE C.V., and WLB Funding, S.A. de C.V., SOFOM, E.N.R;

(4) the securitisation programme in respect of receivables and certain related assets pursuant to an amended and restated receivables purchase agreement dated as of 20 March 2008 (as the same may be amended, restated, supplemented or otherwise modified from time to time) by and among GROL Enterprises, LLC, CEMEX, Inc., as servicer, JPMorgan Chase Bank, N.A., as agent, and the financial institutions, conduit purchasers and managing agents party thereto, and pursuant to the related documents executed in connection therewith; and

(ix) payment in respect of the one year US$1,750,000 standby letter of credit for workmen's compensation due 1 April 2009 issued by Australia and New Zealand Banking Group Limited under which such issuer sent a notice of termination to the beneficiary on 2 March 2009,

provided that the maximum aggregate amount of all payments of Financial Indebtedness under sub paragraph (v) shall not exceed US$50,000,000 during the Relevant Period, and **further provided that** CEMEX Parent shall notify the Co-ordinators if it or any member of the Group makes any repayment of Financial Indebtedness prior to its stated maturity (other than payments referred to in sub paragraphs (i) to (ix)) (with a copy of such notice to be sent by the Co-ordinators to the Lenders).

In any event, CEMEX Parent shall notify the Co-ordinators if it or any member of the Group makes any payment of principal at its stated maturity (other than payments referred to in sub paragraphs (i) to (ix) and as permitted under any Liquidity Facilities) (with a copy of such notice to be sent by the Co-ordinators to the Lenders).

(d) Any Lender takes any action to reduce a Waiver Limit, declare a default or cancel any Relevant Existing Facility or any guarantee or indemnity in favour of a third party or make any alterations to the terms of any Relevant Existing Facility or this Letter (other than (i) as necessary to incorporate waivers and amendments requested in this Letter, (ii) cancellations by Lenders of undrawn commitments under Existing Facilities above the Waiver Limit, or (iii) a reduction of the time period for which a Financial Creditor's exposure is open under any committed trade lines).

(e) Any Lender increases the margin or pricing terms of any Relevant Existing Facility other than in accordance with the terms of such Relevant Existing Facility as in effect on the Reference Date (except for (i) the charging of interest at a rate not exceeding 4.00% per annum over cost of funds (as determined by the relevant Lender, acting reasonably) on the amount of any net balance resulting from any close out of derivatives transactions or collateral agreements or any notes issued in connection therewith or (ii) the charging of interest (to be paid in monthly instalments) at a rate not exceeding 4.00% per annum over cost of funds (as determined by the relevant Lender, acting reasonably) on a Converted Amount (as defined below) where upon maturity or a crystallisation of a liability owing to a Lender under a Soft Facility, the Lender converts the unpaid amount (a "Converted Amount") into an overdraft facility or promissory note payable on demand at any time after the Relevant Period).

(f) Any Lender charges, in respect of a Relevant Existing Facility, interest at a default rate as defined in that Relevant Existing Facility or any analogous rate on any principal amount under any Relevant Existing Facility (provided that no Lender shall be prohibited from receiving default interest to the extent other creditors under that Relevant Existing Facility are receiving such amounts).

(g) Any Lender takes any steps to enforce or make demand under any guarantee, Security or other right of recourse held by it (including but not limited to making a demand for cash cover or blocking any existing cash collateral account or applying any funds standing to the credit of any accounts over which it has a right of direct debit) in each case whether from a member of the Group or a third party other than an export credit agency, credit insurer, risk

sub-participant, or other entity providing credit support in its professional capacity and which entity will not, as a result, have or acquire rights of recourse against the Group which are not regulated by this Letter or otherwise takes any Enforcement Action in each case in respect of any Relevant Existing Facility except (i) as required by law, or (ii) the making of a demand, serving notice of non-renewal or serving notice of default under a Soft Facility or a facility for the issuance of documentary credits (including letters of credit) when a liability under that Soft Facility matures to the extent necessary and for the purpose of crystallising or preserving that liability.

(h) Any Lender takes any steps in connection with any Relevant Existing Facility to wind up or appoint a receiver, administrative receiver or administrator over, or commence any other insolvency related proceedings (or analogous proceedings in any other jurisdiction) against any member of the Group or against any assets of any member of the Group.

(i) Any Lender seeks or takes any new Security, cash cover, guarantee or indemnity in connection with any Relevant Existing Facility (including, without limitation, pursuant to a credit support agreement).

(j) Any Lender exercises any right of appropriation, set-off or combination of accounts to reduce outstandings permanently under any Relevant Existing Facility (except to the extent required by law, and except for the netting, set off or consolidation of balances as between accounts of one or more members of the Group with a Lender pursuant to netting, set off, auto transfer or other cash pooling type arrangements between the relevant Group members and that Lender).

(k) Any member of the Group declares, makes or pays any cash dividend, charge, fee or other cash distribution on or in respect of its share capital (or any class of its share capital) to a person who is not a member of the Group other than (i) any such dividend, fee, charge or other cash distribution made to a minority shareholder of a member of the Group at the same time as an amount being paid to a member of the Group or (ii) any amount or distribution which is an interest payment on Financial Indebtedness but, for accounting purposes, is treated as a dividend.

(l) CEMEX Parent or any member of the Group makes any Unnecessary Capital Expenditure during the Relevant Period (for the purposes of this paragraph (l), where "Unnecessary Capital Expenditure" means any non-maintenance capital expenditure proposed by CEMEX Parent or a member of the Group for payment during the Relevant Period that FTI Consulting Canada ULC., in conducting its review as referred to in sub paragraph 5.1 of paragraph 5 (Co-operation with Due Diligence and Lenders' Financial Adviser), deems to be unnecessary during, or deferrable until after, the Relevant Period) provided that, for the avoidance of doubt, the following amounts of capital expenditure may not be deemed by FTI Consulting Canada ULC. to be unnecessary or deferrable:

(a) amounts of capital expenditure approved by the board of CEMEX Parent or any member of the Group prior to the date of this Letter (for payment during the period from the date of this Letter until April 30, 2009); and

(b) amounts of capital expenditure which CEMEX Parent or any member of the Group is legally committed to make as a result of commitments incurred, undertaken or entered into prior to the date of this Letter.

(m) Any Lender notifies the Co-ordinators and CEMEX Parent that it reasonably believes that an event or circumstance has occurred which is materially prejudicial to its interest relative to other creditors of the Group (such Lender, a "Terminating Lender") (with a copy of such notice to be sent by the Co-ordinators to the Lenders).

Notwithstanding any provision to the contrary in this Letter, none of the following shall constitute a Termination Event:

(i) the granting of the Bridge Liquidity Facility or any other liquidity facilities to members of the Group (together, the " **Liquidity Facilities**") (and CEMEX Parent shall notify the Co-ordinators if any Liquidity Facilities are granted to it or other members of the Group during the Relevant Period (with a copy of such notice to be sent by the Co-ordinators to the Lenders));

(ii) any repayment or prepayment of principal or any payment of interest in respect of any Liquidity Facility;

(iii) the granting of any Security in relation to a Liquidity Facility;

(iv) any action taken in relation to derivatives positions which is explicitly required under or explicitly permitted by the Derivatives Side Letter; or

(v) the payment of interest or fees falling due in respect of any Financial Indebtedness.

ANNEX 6
REPRESENTATIONS AND WARRANTIES

(a) It has the power to enter into, perform and deliver and has taken all necessary action to authorise its entry into, performance and delivery of this Letter and (if such Obligor is a party thereto) the Derivatives Side Letter.

(b) The execution by it of this Letter and (if a party thereto) the Derivatives Side Letter and the exercise of its rights and the performance of its obligations under this Letter and (if a party thereto) the Derivatives Side Letter:

(i) do not constitute and will not result in any breach of applicable law, any agreement to which it is party or any of its constitutive documents; and

(ii) will not result in the existence of or oblige it to create any Security over any of its assets.

(c) No corporate action, legal proceeding or other procedure or step has been taken against any member of the Group in relation to:

(i) its winding up, dissolution, *concurso mercantil, quiebra,* administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or similar arrangement); or

(ii) the appointment of a liquidator, receiver, administrator, *conciliador,* administrative receiver, compulsory manager or similar officer in respect of any member of the Group or any of its assets; or

(iii) any analogous procedure or step in any jurisdiction.

(d) To the best of its knowledge and belief having made all due enquiries, after giving effect to the extensions and waivers granted in sub paragraph 3.1 of paragraph 3 (*Conditional Extensions and Waivers*), no Termination Event had occurred prior to the date of this Letter.

(e) To the best of its knowledge and belief having made all due enquiries, after giving effect to the extensions and waivers granted in sub paragraph 3.1 of paragraph 3 (*Conditional Extensions and Waivers*), no Termination Event has occurred during the Relevant Period.

(f) Subject to the extensions and waivers granted in sub paragraph 3.1 of paragraph 3 (*Conditional Extensions and Waivers*), to the best of its knowledge and belief, having made all due enquiries, no Default has occurred under any Existing Facility which is continuing, outstanding or subsisting (howsoever described).

ANNEX 7
FORM OF LENDER ACCESSION LETTER

To: CEMEX, S.A.B. de C.V. (the "**Company**")
The Co-ordinators (as defined in the Letter)

From: [*Name of acceding Lender*]

1. We refer to the Conditional Waiver and Extension Agreement dated [•] 2009 entered into by the Company and certain of its subsidiaries with certain of their creditors (the "**Agreement**"). Terms defined in the Agreement have the same meaning in this Letter.

2. We agree to become a Lender for the purposes of the Agreement.

3. The Appendix to this Lender Accession Letter sets out details of the facilities to which we are party, each of which we wish to designate:

   (a) (if not already so designated) an Existing Facility under the Agreement; and

   (b) with respect to ourselves, a Relevant Existing Facility,

   and sets out our Exposure under each such Relevant Existing Facility.

4. [Subject to the terms of paragraph 3 (*Conditional Waivers and Extensions*) of the Agreement, we agree, in relation to each Relevant Existing Facility, to temporarily waive, for the Relevant Period, any and all Default under [•].]

   [Note that paragraph 4 is for inclusion where waivers are to be given by the Acceding Lender which are not already granted by paragraph 3.1 of the Letter]

Yours faithfully

_____

for and on behalf of
[**Acceding Lender**]

APPENDIX TO LENDER ACCESSION LETTER

[Details of facilities and exposures to be included]

ANNEX 8
FORM OF ACCEDING OBLIGOR ACCESSION LETTER

To: The Lenders (as defined in the Agreement)

From: [Name of Acceding Obligor]

We refer to the Conditional Waiver and Extension Agreement dated [•] 2009 entered into by CEMEX, S.A.B. de C.V. and certain of its subsidiaries with certain of their creditors (the "**Agreement**"). Terms defined in the Agreement have the same meaning in this letter.

We agree to become an Obligor for the purposes of the Agreement [and the Derivatives Side Letter].

[Note that the inclusion of the Derivatives Side Letter is only relevant if the proposed Obligor should become a party thereto by virtue of it being a CEMEX Derivatives Party (as defined in the Derivatives Side Letter)]

Yours faithfully

_____

for and on behalf of
[Acceding Obligor]

LENDER ACCESSION LETTER

Date: 30 April 2009

To: CEMEX, S.A.B. de C.V. (the "**Company**")
The Co-ordinators (as defined in the Letter)

From: Standard Chartered Bank

1. We refer to the Conditional Waiver and Extension Agreement dated 16 April 2009 entered into by the Company and certain of its subsidiaries with certain of their creditors (the "**Agreement**"). Terms defined in the Agreement have the same meaning in this Letter.

2. We agree to become a Lender for the purposes of the Agreement.

3. The Appendix to this Lender Accession Letter sets out details of the facilities to which we are party, each of which we wish to designate:

   (a) (if not already so designated) an Existing Facility under the Agreement; and

   (b) with respect to ourselves, a Relevant Existing Facility,

   and sets out our Exposure under each such Relevant Existing Facility.

Yours faithfully

/s/ [illegible]

for and on behalf of
Standard Chartered Bank

APPENDIX

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
STANDARD CHARTERED BANK	Amended and Restated Consolidated Promissory Note dated 24 April 2009	USD	45,329,599.74	45,329,599.74

LENDER ACCESSION LETTER

To: CEMEX, S.A.B. de C.V. (the "**Company**")
The Co-ordinators (as defined in the Letter)

From: Merrill Lynch International Bank Limited

Dated: 30th April 2009

4. We refer to the Conditional Waiver and Extension Agreement dated 16 April 2009 entered into by the Company and certain of its subsidiaries with certain of their creditors (the "**Agreement**"). Terms defined in the Agreement have the same meaning in this Letter.

5. We agree to become a Lender for the purposes of the Agreement.

6. The Appendix to this Lender Accession Letter sets out details of the facilities to which we are party, each of which we wish to designate:

(a) (if not already so designated) an Existing Facility under the Agreement; and

(b) with respect to ourselves, a Relevant Existing Facility,

and sets out our Exposure under each such Relevant Existing Facility.

Yours faithfully

/s/ Miriam [illegible]

for and on behalf of
Merrill Lynch International Bank Limited

APPENDIX

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
Merrill Lynch International Bank Limited	Net amount after closed out several derivative transactions	USD	34,072,565.81	34,072,565.81

Part B

Lender	Facility/Derivative	Currency

EXECUTION COPY

SIDE LETTER TO THE CONDITIONAL WAIVER AND EXTENSION AGREEMENT

(1) CEMEX, S.A.B. de C.V.
Ave. Ricardo Margáin Zozaya # 325
Col. Valle del Campestre
Garza García, N.L. 66265 México

(2) CEMEX España, S.A.
Hernández de Tejada, 1
28027 Madrid
Spain

April 1, 2009

Ladies and Gentlemen:

We refer to the Conditional Waiver and Extension Agreement (the "**CWEA**") dated on or about April 1, 2009 (with effect from March 24, 2009), between CEMEX, S.A.B. de C.V. ("**CEMEX Parent**"), CEMEX España, S.A. and each of the banks and financial institutions party thereto (the " **Lenders**"). Each capitalized term that is used but not defined in this letter agreement (this " **Agreement**") shall have the meaning assigned to it in the CWEA. The parties hereto hereby agree, with effect from and including March 24, 2009, as follows:

(1) CEMEX Parent shall cause all derivatives positions to which any CEMEX Derivatives Party is a party to be closed out except the Excluded Positions. "**CEMEX Derivatives Party**" means any party to a derivatives position (1) that is an Obligor, a Subsidiary Obligor or a subsidiary of CEMEX Parent or (2) with respect to which any Obligor, Subsidiary Obligor or subsidiary of CEMEX Parent is a credit support provider; *provided* that none of C5 Capital (SPV) Limited ("**C5**"), Swap 5 Capital (SPV) Limited ("**Swap 5**"), C8 Capital (SPV) Limited ("**C8**"), Swap 8 Capital (SPV) Limited ("**Swap 8**"), C10 Capital (SPV) Limited ("**C10**"), Swap 10 Capital (SPV) Limited ("**Swap 10"**), C10-EUR Capital (SPV) Limited ("**C10-EUR**") or Swap 10 Capital (SPV) Limited ("**Swap 10-EUR**") shall be a CEMEX Derivatives Party. "**Excluded Position**" means each of the positions set forth in Annex 1 hereto. For the avoidance of doubt, none of the extinguishable swaps to which C5, Swap 5, C8, Swap 8, C10, Swap 10, C10-EUR or Swap 10-EUR is a party will be required to be closed out. For the avoidance of doubt, any derivatives positions existing or entered into in the operation of the Group's ordinary course of business, and not for speculative purposes: (1) with respect to which all parties and credit support providers are members of the Group or (2) which is a Permitted Commodity Contract and any agreement incidental thereto shall not be subject to the provisions of this Agreement. " **Permitted Commodity Contract**" means any commodity contract or

agreement with respect to which all parties and credit support providers are not financial institutions. For purposes of this definition "commodity" means raw materials and other inputs used in the Group's operations, energy, water, electric power, electric power capacity, generation capacity, power, heat rate, congestion, diesel fuel, fuel oil, other petroleum-based liquids, coal, commodity transportation, urea, financial transmission rights, emissions and other environmental credits, allowances or offsets, renewable energy credits, Certified Emission Reductions, European Union Allowances, natural gas, nuclear fuel and waste products or by-products thereof or other such tangible or intangible commodity of similar type or description.

(2) CEMEX Parent will administer the unwinding of all derivatives positions to be closed out and will have 10 business days beginning on and including March 24, 2009 (such period, the "**Unwind Period**") to complete the unwinding process.

(3) To the extent the mark-to-market value of the derivatives positions (including any unpaid termination amounts) moves against the applicable CEMEX Derivatives Party, CEMEX Parent shall cause the applicable CEMEX Derivatives Party to continue to post collateral or margin to the applicable counterparty under the terms of the Applicable Contract until all derivatives positions with that counterparty have been closed out. " **Applicable Contract**" means, with respect to a derivatives position, the agreement governing such derivatives position, as in effect on March 24, 2009, subject to Section 8 of this Agreement.

(4) No Lender party hereto shall be obligated to:

(a) other than in connection with any Excluded Position, return any collateral or margin to the applicable CEMEX Derivatives Party or

(b) pay the applicable CEMEX Derivatives Party any termination payments,

in each case until all derivatives positions with that Lender (other than any Excluded Positions) have been closed out.

(5) Before all of a Lender's derivatives positions with a CEMEX Derivatives Party have been closed out, a Lender may accept a CEMEX Note (as defined below) as satisfaction of any payment obligation of a CEMEX Derivatives Party. Upon close-out of all of a Lender's derivatives positions with a CEMEX Derivatives Party (other than any Excluded Positions), that Lender will:

(a) calculate a net balance after netting and/or setting off all termination payments under and CEMEX Notes issued with respect to such closed-out derivatives positions (and if such termination payments or

CEMEX Notes are expressed in different currencies, such Lender will, prior to such netting and/or setting off, convert all payments into a single currency in a commercially reasonable manner), and

(b) apply any collateral or margin that Lender is holding against the net amounts owing to that Lender,

in each case, in accordance with the terms of the Applicable Contract (as if the Applicable Contract were terminated as a result of a CEMEX Derivatives Party default); *provided* that a Lender may apply collateral or margin to CEMEX Notes or termination payments due prior to the close-out of all of a Lender's derivatives positions with a CEMEX Derivatives Party. If after this setting-off, netting and application, the applicable CEMEX Derivatives Party owes that Lender a payment of money, the net amount payable will be deferred in accordance with the CWEA, and the applicable CEMEX Derivatives Party shall pay accrued interest monthly on the amount deferred, which obligation shall be evidenced in one or more CEMEX Notes with an aggregate outstanding principal balance equal to such amount deferred (it being understood that the Lender will cooperate with the applicable CEMEX Derivatives Party to reduce the outstanding balance of or return any CEMEX Note to the extent that the Lender has an excess outstanding principal amount of CEMEX Notes). " **CEMEX Note**" means a non-negotiable demand promissory note acceptable to the Lender (it being understood that (i) the Lender will extend the payment date for any principal payment in respect of such promissory note in accordance with the terms of the CWEA, (ii) interest shall accrue on such promissory note at the Lender's cost of funds plus 4.00% and (iii) if the terminated derivatives positions are the subject of any guarantee, such promissory note shall be the subject of an equivalent guarantee (or a guarantee *por aval*) to be granted by the same guarantor). If after this setting-off, netting and application, the applicable Lender owes a payment of money or a return of collateral or margin to the applicable CEMEX Derivatives Party, then that Lender will make such payment or return to the applicable CEMEX Derivatives Party in accordance with the terms of the Applicable Contract.

(6) Upon close-out of any derivatives position (other than any Excluded Position) between a CEMEX Derivatives Party and a counterparty that is not a Lender, all termination and other payments and deliveries in accordance with the terms of the agreement governing such derivatives position shall be permitted.

(7) With respect to each Excluded Position, margin calls or collateral postings by either party for mark-to-market movements will be permitted as provided in the Applicable Contract. (A) At any time with respect to any Excluded Position and (B) on or prior to the ninth business day after the Reference Date with respect to any other derivatives positions, any making of scheduled payments pursuant to the Applicable Contract will be permitted.

(8) Increases in collateral or margin requirements under any Applicable Contract (including, for the avoidance of doubt, with respect to Excluded Positions) of any CEMEX Derivatives Party as the result of CEMEX Parent ratings downgrades or similar credit-related occurrences will not apply during the Relevant Period.

(9) No collateral or margin shall be posted by any CEMEX Derivatives Party in respect of any derivatives positions entered into by a CEMEX Derivatives Party during the Relevant Period.

(10) CEMEX Parent acknowledges that each Lender is relying on CEMEX Parent's performance of its obligations set forth in this Agreement. Each Lender that is a party to this Agreement agrees not to deliver any notice pursuant to sub paragraph 3.5 or 3.6 of the CWEA solely as a result of any action taken by CEMEX Parent, any CEMEX Derivatives Party or any Lender that is a Termination Event under the CWEA but is explicitly required under or explicitly permitted by this Agreement.

(11) The provisions of paragraphs 11 and 12 of the CWEA shall apply to this Agreement as if set out in full herein except that (A) references to "this Letter" shall be construed as references to this Agreement and (B) the parties to this Agreement confirm that the appointment of the Process Agent in accordance with the terms of the CWEA will be sufficient for the purposes of this Agreement and that a separate appointment is not required.

(12) No amendment or waiver of any provision of this Agreement shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

(13) This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

Yours truly,

ABN AMRO Bank N.V.

By: /s/ Luis Moreno
Name: Luis Moreno
Title: Attorney

By: /s/ Hernan Lopez [illegible]
Name: Hernan Lopez [illegible]
Title: Attorney

Australia and New Zealand Banking Group Limited

By: /s/ John W. Wade
Name: John W. Wade
Title: Deputy General Manager
Head of Operations and Infrastructure

Banco Santander, S.A.

By: /s/ Juan A. [illegible]
Name: Juan A. [illegible]
Title: Attorney-in-Fact

Bank of America, N.A.

By: /s/ Orlando Loera
Name: Orlando Loera
Title: Attorney-in-Fact

Barclays Bank PLC

By: /s/ Mark Manski
Name: Mark Manski
Title: Managing Director

BBVA Bancomer S.A., Institución de Banca Mùltiple,
Grupo Financiero BBVA Bancomer

By: /s/ Lorenzo [illegible]
Name: Lorenzo [illegible]
Title: Attorney-in-Fact

By: /s/ Luis Cano
Name: Luis Cano
Title: Attorney-in-Fact

BNP Paribas

By: /s/ Christopher [illegible]
Name: Christopher [illegible]
Title: Director

By: /s/ John Treadwell
Name: John Treadwell
Title: Vice President

Calyon, Sucursal en Madrid

By: /s/ Richard Teitelbaum
Name: Richard Teitelbaum
Title: Director

By: /s/ Alan Sidrane
Name: Alan Sidrane
Title: Managing Director

Citibank, N.A.

By: /s/ Flavio Figueiredo
Name: Flavio Figueiredo
Title: Managing Director

HSBC Bank USA, National Association

By: /s/ Pierre N. McDonnaugh
Name: Pierre N. McDonnaugh
Title: Vice President

HSBC México, SA, Institución de Banca Múltiple, Grupo Financiero HSBC

By: /s/ Carlos Gonzalez [illegible]
Name: Carlos Gonzalez [illegible]
Title: Attorney in Fact

ING Bank N.V. (on behalf of itself and its subsidiaries)

By: /s/ M.P.W. van Klink
Name: M.P.W. van Klink
Title: Sr. Manager Credit Restr.

By: /s/ Pia Gutierrez Ugarte
Name: Pia Gutierrez Ugarte
Title: Sr. Account Manager GCR

JPMORGAN CHASE BANK, N.A.

By: /s/ William A. Austin
Name: William A. Austin
Title: Executive Director

Merrill Lynch International Bank Limited

By: /s/ [illegible]
Name:
Title:

The Royal Bank of Scotland plc

By: /s/ Pablo Otero
Name: Pablo Otero
Title:

/s/ Ignacio [illegible]
Attorney

Accepted and agreed:

CEMEX, S.A.B. de C.V.
For itself and on behalf of each
CEMEX Derivatives Party

By: /s/ [illegible]
Name:
Title:

Accepted and agreed:

CEMEX España, S.A.
For itself and on behalf of each
CEMEX Derivatives Party

By: /s/ [illegible]
Name:
Title:

ANNEX 1

EXCLUDED POSITIONS[1]

The following are Excluded Positions:

(a) the IRT transactions that are governed by the ISDA Master Agreement dated as of February 14, 2003 between Banco Santander S.A., Institución de Banca Múltiple, Grupo Financiero Santander and Centro Distribuidor de Cemento, S.A. de C.V. (References: 6032 – 1000760 and 6032 – 1000761);

(b) the trust put options that are governed by the ISDA Master Agreement dated as April 23, 2008 between Citigroup Global Markets Inc, as agent for Citibank N.A., and Banco Nacional de Mexico, S. A., Integrante del Grupo Financiero Banamex, División Fiduciaria, acting solely as trustee under Trust No. 111339-7 (Reference: Trust Number 111339-7);

(c) the Axtel share forward transaction that is governed by a long form Confirmation dated January 22, 2009 between Credit Suisse International and Centro Distribuidor de Cemento S.A. de C.V. (References: External ID: 16059563 – Risk ID: 10008383);

(d) the Axtel share forward transaction that is governed by a long form Confirmation dated April 1, 2008 between BBVA Bancomer S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer and Centro Distribuidor de Cemento S.A. de C.V. (Reference: EQS- 1428-MX344247);

(e) the PEZ transactions that are governed by an ISDA Master Agreement dated as of October 12, 2000 between Banco Santander S.A., Institución de Banca Múltiple, Grupo Financiero Santander and Centro Distribuidor de Cemento, S.A. de C.V. (References: 4763217.25 – 4763238.25, 4763415.25 – 4763431.25, 4763342.25 – 4763323.25, 4763271.25 – 4763311.25, 4763438.25 – 4763454.25, 4763375.25 – 4763392.25);

(f) the interest rate swap governed by a Swap Agreement dated September 24, 2007 between Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, not in its individual capacity but acting solely as trustee on behalf of the Trust Number 111014-2 under the Restated Trust Agreement dated as of March 26, 1999, as amended, modified or supplemented from time to time and Cemex, S.A.B. de C.V.;

[1] G12 to review list of Excluded Positions.

(g) any forward transactions under the Electricity Sales and Purchase Agreement between Sempra Energy Solutions LLC and RMC Pacific Materials Inc. dated as of October 31, 2007;

(h) the EU Emissions Allowance transactions that are governed by an ISDA Master Agreement dated as of June 3, 2005, between Morgan Stanley Capital Services Inc. and Cemex S. A. B. de C. V. (References: 118068, 118252, 118704,118698,113274, 113276, 113277, 113278, 113279, 113282, 113283, 113284, 113285, 113286, 113206, 113209, 113210, 113211, 113212, 113213, 113214, 113215, 113216, 113218, 113219, 113220, 113221, 113222, 113223, 113224, 113225, 113226, 113227, 113228); and

(i) all EU Emissions Allowance transactions under the "Contrato de Swap de CERs por EUAs", dated September 23, 2008 between Caleras de San Cucao, S. A. and Cemex International Finance Company.

EXHIBIT 4.32.1

AMENDMENT TO CONDITIONAL WAIVER AND EXTENSION AGREEMENT

(1) CEMEX, S.A.B. de C.V. ("**CEMEX Parent**")
Ave. Ricardo Margáin Zozaya # 325
Col. Valle del Campestre
Garza García, N.L. 66265 México

(2) CEMEX España, S.A. ("**CEMEX España**")
Hernández de Tejada, 1
28027 Madrid
Spain

29 June 2009

Dear Sirs

Amendment to Conditional Waiver and Extension Agreement

1. We refer to:

   (a) the Conditional Waiver and Extension Agreement dated 16 April 2009 between, *inter alios*, CEMEX Parent, CEMEX España and the banks and financial institutions (the "**Lenders**") party thereto (the "**CWEA**"); and

   (b) the draft termsheet setting out the terms of a master override agreement in relation to the restructuring of the Existing Facilities (the " **Master Override Agreement**") circulated to the Lenders (the "**Termsheet**").

2. Terms defined and expressions used in the CWEA shall have the same meaning and construction in this letter unless the context otherwise indicates.

3. Having regard to the progress that has been made by CEMEX Parent and CEMEX España with the Co-ordinators and the Committee Banks in respect of reaching broad commercial agreement on a refinancing plan as evidenced by the circulation of the Termsheet to the Lenders, each of the parties hereto agrees to amend the CWEA with effect from the date hereof in accordance with the provisions of paragraphs 4 to 9 of this letter. The effect of these amendments is to ensure that:

   (a) the Relevant Period under the CWEA remains effective until 31 July 2009;

   (b) additional Relevant Existing Facilities, pursuant to which maturities shall fall due during the revised Relevant Period, are made subject to the terms and conditions of the CWEA; and

   (c) Lenders are paid fees until the end of the Relevant Period (as amended).

4. The definition of "Relevant Period" in Annex 2 (*Definitions and Interpretation*) to the CWEA shall be deleted in its entirety and replaced with the following:

""**Relevant Period**" means the period that starts on the Reference Date and ends on the earlier of:

(a) 6pm Madrid time on 31 July 2009 **except that** where, on the date of this Letter, any Lender only has credit and other internal approvals to provide the extensions and waivers set out in sub paragraph 3.1 of paragraph 3 (*Conditional Waivers and Deferrals*) for a period starting on the Reference Date and ending prior to 31 July 2009, and such Lender has not, prior to the end of such lesser period confirmed to the Co-ordinators and CEMEX Parent that it has obtained credit and other internal approvals for a period ending on 31 July 2009, then the Relevant Period for the purposes of this paragraph (a) shall end on the date for which that Lender has obtained credit and other internal approvals (the " **End Date**") **provided that** such Lender shall notify the Co-ordinators and CEMEX Parent of such End Date not less than five days prior to such End Date (with a copy of such notice to be sent by the Co-ordinators to the Lenders);

(b) the Master Override Agreement becoming fully effective in accordance with its terms; and

(c) the termination of the Relevant Period pursuant to sub paragraph 3.5 (or, with respect only to the relevant Terminating Lender and any relevant Further Terminating Lender, pursuant to sub paragraph 3.6) of paragraph 3 (*Conditional Waivers and Extensions*)."

5. Paragraph 10 (*Fees*) of the CWEA shall be amended as follows:

(a) in sub paragraph (c), the full stop at the end of that paragraph shall be deleted and replaced with a semi-colon; and

(b) a new sub paragraph (d) shall be added as follows:

"a fee of 0.25% on the amount of its Extended Payment, which shall be payable on 31 July 2009 (provided that the Relevant Period has not been terminated prior to such date other than pursuant to the provisions of (b) of the definition of Relevant Period)."

6. Annex 2 (*Definitions and Interpretation*) shall be amended to include the following definitions:

""**Amendment Date**" means the date on which this Letter was amended by way of an amendment letter.

"**Lender**" means an Original Lender, a New Lender or any other Lender that has already acceded to or accedes to this Letter pursuant to a Lender Accession Letter.

"**Master Override Agreement**" means the master override agreement to be entered into between, *inter alios*, CEMEX Parent, CEMEX España, certain Lenders and any other relevant Financial Creditor in respect of the restructuring of the Existing Facilities and any other relevant facilities and financial accommodation provided by other Financial Creditors of the Group.

"**New Lender**" means any Financial Creditor that became a Lender under this Letter on the Amendment Date.

"**Original Lender**" means any Lender which was a party to this Letter on and from 16 April 2009."

7. Annex 3 (*Exposures*) to the CWEA shall be deleted in its entirety and replaced with a new Annex 3 in the form provided for in Schedule 1 (*Amended Annex 3*) to this amendment letter.

8. In respect of any Financial Creditors that prior to the date of this amendment letter, were not Lenders, for the purposes of this amendment letter, paragraph 9 (*Acceding Lenders and Acceding Obligors*) of the CWEA shall be suspended and each Financial Creditor that signs this amendment letter shall automatically be deemed to have acceded to all of the terms and conditions in and under the CWEA as a Lender.

9. Annex 5 (*Termination Events*) to the CWEA shall be amended as follows:

Paragraph (c) shall be amended as follows::

(a) by deleting sub paragraph (iii) in its entirety and replacing it with the following:

"(iii) payment of any amount which has matured or otherwise fallen due under (a) a Soft Facility; or (b) any public debt instrument denominated in Mexican pesos; or (c) any tax exempt (environmental) bonds due by CEMEX Inc.;"

(b) by including a new sub paragraph (v)(A):

"the following scheduled payments (expressed as amounts converted into US dollars by CEMEX Parent with a conversion date of 11 June 2009):

(i) a payment in an amount of US$ equivalent 7,923,160 to ABC Capital, falling due on 29 June 2009;

(ii) a payment in an amount of US$ equivalent 14,831 to Kreissparkasse, falling due on 30 June 2009;

(iii) a payment in an amount of US$ equivalent 1,633,090 to Banco Afirme, falling due on 16 July 2009;

(iv) a payment in an amount of US$ equivalent 7,440,476 to Banco de Occidente, falling due on 21 July 2009;

(v) a payment in an amount of US$ equivalent 5,133,928 to Banco de Crédito Colombia, falling due on 27 July 2009;

(vi) a payment in an amount of US$ equivalent 5,133,928 to Banco de Crédito Colombia, falling due on 27 July 2009;

(vii) a payment in an amount of US$ equivalent 7,440,476 to Banco de Occidente, falling due on 28 July 2009;

(viii) a payment in an amount of US$ equivalent 1,258,741 to Banco León, falling due on 31 July 2009;

(ix) a payment in an amount of US$ equivalent 2,797,203 to Banco León, falling due on 31 July 2009;

(x) a payment in an amount of US$ equivalent 2,797,203 to Banco León, falling due on 31 July 2009;";

(c) by deleting the words "24 June 2009" in sub paragraph (ix) and replacing them with the words "31 July 2009"; and

(d) by deleting the words "sub paragraph (v)" in the paragraph immediately following sub paragraph (ix) and replacing them with the words "sub paragraphs (v) and (v)(A)"

10. Save as specifically amended, varied or waived by this amendment letter, the provisions of the CWEA shall remain in full force and effect.

11. For the avoidance of doubt, nothing in this amendment letter shall constitute or be construed as a waiver of any of the rights or remedies of any of the Lenders and no failure or delay in exercising, on the part of a Lender, any right or remedy under the CWEA shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further exercise thereof or the exercise of any other right or remedy.

12. This amendment letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

13. Paragraphs 12 (*Jurisdiction*) and 13 (*Counterparts*) of the CWEA will also apply to this amendment letter as if set out in this amendment letter in full.

Please sign and date below in agreement with this letter and return the same ProjectJewelTeamCC@cliffordchance.com and Team-ProjectJewel-CGSHonly@cgsh.com on or before 5pm (New York time) on Monday 22 June 2009.

Please sign below in agreement with this letter.

Yours faithfully,

Signed /s/ [illegible]
Director
Name of institution (please print): Australia and New Zealand Banking Group Limited

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): Banco Bilbao Vizcaya Argentaria, S.A.

/s/ Bosco Eguilior
Signed Bosco Eguilior
Name of institution (please print): Banco Bilbao Vizcaya Argentaria, S.A.

Yours faithfully,

/s/ Alejandro Cardenas Bortoni
Signed Alejandro Cardenas Bortoni
Apoderado
Name of institution (please print): BBVA Bancomer, S.A. Institución de Banca Múltiple Grupo Financiero BBVA Bancomer

/s/ Lorenzo [illegible] Elizondo
Signed Lorenzo [illegible] Elizondo
Apoderado
Name of institution (please print): BBVA Bancomer, S.A. Institución de Banca Múltiple Grupo Financiero BBVA Bancomer

Yours faithfully,

Banco Bilbao Vizcaya Argentaria, S.A., New York Branch

/s/ Rodolfo Hare
Signed Rodolfo Hare
Vice President

/s/ Christian Aguirre
Signed Christian Aguirre
Assistant Vice President

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Attorney-in-fact
Name of institution (please print): Banco Santander, S.A.

Yours faithfully,

/s/ [illegible]
Signed /s/ [illegible]
Name of institution (please print): Bank of America, N.A.

Yours faithfully,

/s/ Gustavo Muñiz
Signed Gustavo Muñiz
Name of institution (please print): Bank of America, N.A.

Yours faithfully,

/s/ Myles Kassin
Signed Myles Kassin
Director
Name of institution (please print): Barclays Bank PLC

Yours faithfully,

/s/ Kathryn Quinn
Signed Kathryn Quinn
Managing Director
Name of institution (please print): BNP Paribas

/s/ Kristie Pellecchia
Signed Kristie Pellecchia
Vice President
Name of institution (please print): BNP Paribas

Yours faithfully,

/s/ Jesus [illegible]
Signed Jesus [illegible]
Name of institution (please print): Calyon

Yours faithfully,

/s/ Richard Teitelbaum
Signed Richard Teitelbaum
Name of institution (please print): Calyon

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): Citibank International plc, Sucursal en España

Yours faithfully,

/s/ Flavio Figueiredo
Signed Flavio Figueiredo
Managing Director
Name of institution (please print): Citibank, N.A. New York

Yours faithfully,

/s/ Ian McMillan
Signed Ian McMillan
Name of institution (please print): HSBC Bank plc

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): HSBC Bank plc, Sucursal en España

Yours faithfully,

/s/ Victor Manuel Elizondo Arías
Signed Victor Manuel Elizondo Arías
Name of institution (please print): HSBC México, S.A., Institución de Banca Múltiple, Grupo Financiero HSBC

/s/ Victor Manuel Elizondo Arías
Signed Victor Manuel Elizondo Arías
Name of institution (please print): HSBC México, S.A., Institución de Banca Multiple, Grupo Financiero HSBC, acting through its Grand Cayman Branch

Yours faithfully,

/s/ M.P.W. van Klink
Signed M.P.W. van Klink
Name of institution (please print): ING Bank N.V. and its affiliates

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): ING Bank N.V. and its affiliates

Yours faithfully,

/s/ Miguel Estrada Martí
Signed Miguel Estrada Martí
Attorney-in-fact
Name of institution (please print): ING Bank (México), SA, Institución de Banca Multiple

Yours faithfully,

/s/ José Carassó Amaiz
Signed José Carassó Amaiz
Director
Name of institution (please print): ING Bank (México), SA, Institución de Banca Multiple

Yours faithfully,

/s/ Gustavo De Rosa
Signed Gustavo De Rosa
Name of institution (please print): ING Belgium S.A., Sucursal en España

Yours faithfully,

/s/ Christophe Poos
Signed Christophe Poos
Name of institution (please print): ING Belgium S.A., Sucursal en España

Yours faithfully,

/s/ Pablo Ogarrio
Signed Pablo Ogarrio
Name of institution (please print): JPMORGAN CHASE BANK, N.A.

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): The Royal Bank of Scotland plc

/s/ [illegible]
Signed [illegible]
Name of institution (please print): The Royal Bank of Scotland plc

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): ABN Amro Bank N.V., Sucursal en España

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): ABN Amro Bank N.V., Sucursal en España

Yours faithfully,

/s/ Jonathan Smith
Signed Jonathan Smith
Name of institution (please print): Lloyds TSB Bank plc

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): Banco Español de Crédito, S.A.

/s/ [illegible]

Yours faithfully,

/s/ Miguel Otero
Signed Miguel Otero
Name of institution (please print): Fortis Bank SA, Sucursal en España

Yours faithfully,

/s/ Jose Sarasola
Signed Jose Sarasola
Name of institution (please print): Fortis Bank SA, Sucursal en España

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): Instituto de Credito Oficial - ICO

Yours faithfully,

/s/ Berto Nuvolone
Signed Berto Nuvolone
Name of institution (please print): WestLB AG

Yours faithfully,

/s/ Raul Calvo
Signed Raul Calvo
Name of institution (please print): WestLB AG

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): Scotiabank Europe plc

/s/ [illegible]
Signed [illegible]
Name of institution (please print): Scotiabank Europe plc

Yours faithfully,

/s/ David Noda
Signed David Noda
Vice President and Manager
Name of institution (please print): The Bank of Tokyo-Mitsubishi UFJ, Ltd.

On behalf of The Bank of Tokyo-Mitsubishi UFJ, Ltd., Sucursal en España

Yours faithfully,

/s/ Gina Hoey
Signed Gina Hoey
Vice President
Name of institution (please print): Bayerische Landesbank

Yours faithfully,

/s/ Nikolai von Mengden
Signed Nikolai von Mengden
Senior Vice President
Name of institution (please print): Bayerische Landesbank

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): Deutsche Bank Luxembourg S.A.

/s/ [illegible]
Signed [illegible]
Name of institution (please print): Deutsche Bank Luxembourg S.A.

Yours faithfully,

/s/ Mario Campana
Signed Mario Campana
Name of institution (please print): Unicredit S.p.A. – Sucursal en España

/s/ Federico Pozzolo
Signed Federico Pozzolo
Name of institution (please print): Unicredit S.p.A. – Sucursal en España

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Manager
Name of institution (please print): Bank of Ireland

/s/ [illegible]
Signed [illegible]
Senior Manager
Name of institution (please print): Bank of Ireland

Yours faithfully,

/s/ Marco Silvo Pizzi
Signed Marco Silvo Pizzi
Name of institution (please print): Intesa Sanpaolo S.p.A., Sucursal en España

Yours faithfully,

/s/ Juan F Pontoni
Signed Juan F Pontoni
Name of institution (please print): Intesa Sanpaolo S.p.A., Sucursal en España

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): Caja de Ahorros y Monte de Piedad de Madrid

/s/ [illegible]
Signed [illegible]
Name of institution (please print): Caja de Ahorros y Monte de Piedad de Madrid

Yours faithfully,

/s/ Pierre Vincent
Signed Pierre Vincent
Directeur Corporate
Name of institution (please print): Caisse Regionale de Credit Agricole Mutuel de Paris d'Ile de France

Yours faithfully,

/s/ Brian Smith
Signed Brian Smith
Managing Director
Name of institution (please print): Commerzbank AG (formerly Dresdner Bank AG acting through its lending office, Dresdner Bank AG, New York Branch) as Lender

/s/ Mark McGuigan
Signed Mark McGuigan
Vice President

Yours faithfully,

/s/ Diony Lebot
Signed Diony Lebot
Name of institution (please print): Société Générale

Yours faithfully,

/s/ Mr. Arturo Bermúdez Cachaza
Signed Mr. Arturo Bermúdez Cachaza
Head of Syndications
Name of institution (please print): Caixa Galicia

Yours faithfully,

/s/ Javier Micó
Signed Javier Micó
Name of institution (please print): IKB Deutsche Industriebank AG, Sucursal en España

Yours faithfully,

/s/ Baltasar Suarez Llorente
Signed Baltasar Suarez Llorente
Name of institution (please print): Caja de Ahorros de Asturias

Yours faithfully,

/s/ Christian Schellino
Signed Christian Schellino
Directeur des Engagements
Name of institution (please print): BRED Banque Populaire

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): Centrobanca S.P.A., Banca di Credito Finanziario e Mobiliare SpA

Yours faithfully,

/s/ Marc Chait
Signed Marc Chait
Name of institution (please print): Standard Chartered Bank

Yours faithfully,

/s/ [illegible]
Signed [illegible]
Name of institution (please print): Standard Chartered Bank

Yours faithfully,

/s/ Miriam Corcoran
Signed Miriam Corcoran
Authorised Signatory
Name of institution (please print): Merrill Lynch International Bank Limited

Accepted and agreed:

CEMEX, S.A.B. de C.V.
For itself and on behalf of each Subsidiary Obligor
By: /s/ Hector Medina

Dated:

Accepted and agreed:

CEMEX España, S.A.
For itself and on behalf of each Subsidiary Obligor
By: /s/ Hector Medina

Dated:

Accepted and agreed:

CEMEX, S.A.B. de C.V.
For itself and on behalf of each Subsidiary Obligor
By: /s/ Rodrigo Trevino

Dated:

Accepted and agreed:

CEMEX España, S.A.
For itself and on behalf of each Subsidiary Obligor
By: /s/ Rodrigo Trevino

Dated:

Schedule 1 – Amended Annex 3

See Spreadsheet attached separately

Schedule 1 – Annex 3

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
ABN AMRO Bank N.V.	Promissory Note US$6,625,000 ABN, dated 6 April 2009	USD	6625000	6625000

Part B

Lender	Facility/Derivative	Currency		

Exchange Rate

TOTAL EXPOSURE DEFERRED	**USD**	**165,700,000.00**
	AUD	**37,083,869.33**

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
Australia and New Zealand Banking Group Limited	US$150,000,000 Loan Facility Agreement Australia and New Zealand Banking Group Limited dated 19 March, 2009	USD	150,000,000.00	
Australia and New Zealand Banking Group Limited	Standby Letter of Credit for the account of CEMEX, Inc. / CEMEX Materials LLC.	USD	1,750,000.00	
Australia and New Zealand Banking Group Limited	Standby Letter of Credit for the account of CEMEX, Inc. / CEMEX Materials LLC.	USD	13,950,000.00	USD165,700,000
Australia and New Zealand Banking Group Limited	AUS$4,000,000 Credit Cards Limit to Cemex Australia Pty Limited (AUS$515,832.22 outstanding as of March 19, 2009)	AUD	515,832.22	
			Outstanding as of March 19, 2009	
Australia and New Zealand Banking Group Limited	AUS$36,570,000 Indemnity Guarantee facilities (for performance, workmen's comp and financial guarantees) to Cemex Australia Pty Limited and Rinker Group Pty LTd (AUS$35,818,037.11 and US$750,000 outstanding)	AUD	36,568,037.11	AUD 37,083,869
			Outstanding as of March 19, 2009	

Part B

Lender	Facility/Derivative	Currency	Exposure Original CCY

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CAJA DE AHORROS DE ASTURIAS	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	8,100,000	8,100,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate	JPY	98.43	
	EUR	1.2744	

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
‘BANCO ESPAñOL DE CRéDITO, S.A. MADRID- Banesto	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	50,750,000	50,750,000
‘BANCO ESPAñOL DE CRéDITO, S.A. MADRID- Banesto	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	2,970,778,269	30,181,634

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
BARCLAYS BANK PLC, MIAMI	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	38,549,118	38,549,118
BARCLAYS BANK PLC	Promissory Note US$49,128,020 Barclays Bank, dated 31 March 2009	USD	49,128,020	49,128,020

Part B

Lender	Facility/Derivative	Currency
BARCLAYS BANK PLC	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
BARCLAYS BANK PLC	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
Barclays Bank New York Branch	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
BARCLAYS BANK PLC	Surety Bond issued by Barclasy Bank PLC (with CEMEX UK Operations Limited as the borrower)	USD

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
BAYERISCHE LANDESBANK	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	22,209,338	22,209,338

Part B

Lender	Facility/Derivative	Currency

Exchange Rate	JPY	98.43
	EUR	1.2744
	MXN	15.26
	COP	2555.89

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
Banco Bilbao Vizcaya Argentaria, S.A.	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	90,585,129	90,585,129
Banco Bilbao Vizcaya Argentaria, S.A.	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	2,920,782,887	2,920,782,887
BBVA BANCOMER, S.A., INSTITUCION DE BANCA MULTIPLE GRUPO FINANCIERO BBVA BANCOMER	Promissory Note US$50,00,000 BBVA Bancomer, dated 6 April 2009	USD	50,000,000	50,000,000

Part B

Lender	Facility/Derivative	Currency
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	EUR

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	EUR
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
BBVA BANCOMER, S.A., INSTITUCION DE BANCA MULTIPLE GRUPO FINANCIERO BBVA BANCOMER	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	MXN
BBVA BANCOMER, S.A., INSTITUCION DE BANCA MULTIPLE GRUPO FINANCIERO BBVA BANCOMER	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	USD
BBVA BANCOMER, S.A., INSTITUCION DE BANCA MULTIPLE GRUPO FINANCIERO BBVA-BANCOMER	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
BANCO BILBAO VIZCAYA ARGENTARIA S.A.	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
BANCO BILBAO VIZCAYA ARGENTARIA PUERTO RICO	US$30,000,000 CEMEX de Puerto Rico, Inc. Credit Agreement dated 31 August, 2005	USD
BBVA FACTORING E.F.C., S.A.	Contrato de Confirming del 14 de Enero del 2000 (EUR 30,000,000)	EUR
BBVA FACTORING E.F.C., S.A.	Contrato de Factoring (EUR 20,000,000)	EUR
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	Gestion de Cartera (EUR 8,000,000)	EUR

BBVA Colombia S.A.	COP20,000,000,000 CEMEX Colombia S.A. Pagaré al 16 Mayo, 2007	COP
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	Stand By Letters of Credit and Bank Guarantee issued by Banco Bilbao Vizcaya Argentaria, S.A. (EUR 15,000,000)	EUR
BANCO BILBAO VIZCAYA ARGENTARIA, S.A., NEW YORK BRANCH	US$500,000,000 Pez Loan with CEMEX,S.A.B. de C.V. dated 25 June 2008, as further amended	USD
BANCO BILBAO VIZCAYA ARGENTARIA, S.A., NEW YORK BRANCH	Stand By Letters of Credit (US$57,024,753)	USD
BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	EQUITY(Confirmation between CEDICE and BBVA Bancomer, S.A. dated March 13, 2009)	USD

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	20,000,000	20,000,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate	JPY	98.43	
	EUR	1.2744	

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (Original Currency)
BNP Paribas	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	58,250,000	58,250,000
BNP Paribas	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	1,918,243,896	1,918,243,896
BNP Paribas	US$37,500,000 Loan Facility Agreement BNP Paribas (Sydney Branch) dated 1 October, 2007	USD	37,500,000	37,500,000
BNP Paribas	Promissory Note US$50,000,000 BNP Paribas, dated 6 April 2009	USD	50,000,000	50,000,000
BNP Paribas	Cash management lines	EUR	21,930,000	21,930,000

Part B

Lender	Facility/Derivative	Currency
BNP Paribas	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD

BNP Paribas	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	EUR
BNP Paribas	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
BNP Paribas	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
BNP Paribas	US$700,000,000 syndicated facility, guarantees by CEMEX, CEMEX Mexico, Empresas Tolteca	USD
BNP Paribas	EPS (Quarry Bonds)	EUR
BNP Paribas	Util Ligne Glob EPS	EUR

Exchange Rate		EUR	1.2744	

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
BANK OF AMERICA NA, SUCURSAL ESPAÑA	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	17,976,618	17,976,618
BANK OF AMERICA, N.A.	Several Stand By Letters of Credit issued by Bank of America, N.A.	USD	8,720,117	8,720,117
BANK OF AMERICA, N.A.	Promissory Note US$4,093,054 Bank of America, dated 6 April 2009	USD	4,093,054	4,093,054

Part B

Lender	Facility/Derivative	Currency
BANK OF AMERICA NA, SUCURSAL ESPAÑA	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
BANK OF AMERICA N.A.	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	USD
BANK OF AMERICA, N.A.	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
BANK OF AMERICA, N.A.	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
BANK OF AMERICA, N.A.-San Fran Branch	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
BANK OF AMERICA, N.A.	Several Stand By Letters of Credit issued by Bank of America, N.A.	USD

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
BANK OF TOKYO-MITSUBISHI UFG LTD.; SUCURSAL EN ESPAÑA	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	11,100,000	11,100,000

Part B

Lender	Facility/Derivative	Currency
THE BANK OF TOKYO-MITSUBISHI UFG, LTD. SUCURSAL EN ESPAÑA	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
THE BANK OF TOKYO-MITSUBISHI, LTD	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
THE BANK OF TOKYO-MITSUBISHI LTD.	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
THE BANK OF TOKYO-MITSUBISHI, LTD.	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD

Exchange Rate		EUR	1.2744	

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
BRED BANQUE POPULAIRE	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	17,500,000	17,500,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate		EUR	1.2744	

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CAJA MADRID	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	13,572,500	13,572,500

Part B

Lender	Facility/Derivative	Currency

Exchange Rate		EUR	1.2744	

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CALYON NEW YORK BRANCH	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	59,154,817	59,154,817
CALYON NEW YORK BRANCH	Promissory Note US$1,296,000 Calyon, dated 6 April 2009	USD	1,296,000	1,296,000

Part B

Lender	Facility/Derivative	Currency
CALYON	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
CALYON SUCURSAL EN ESPAÑA	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
CALYON NEW YORK BRANCH	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
Caisse Régionale de Crédit Agricole Mutuel du Gard	BANK LOAN	EUR
CALYON NEW YORK BRANCH	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CENTROBANCA - BANCA DE CREDITO	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	25,000,000	25,000,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate	JPY	98.43
	MXN	15.26
	PLN	3.655
	EGP	5.5973
	THB	35.775
	EUR	1.2744
	BDT	68.25

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CITIBANK NA, NEW YORK	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	45,585,129	45,585,129
CITIBANK NA, NEW YORK	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	865,709,523	8,795,180
Citibank, N.A.	Promissory Note US$51,947,000 Citibank, dated 6 April 2009	USD	51,947,000	51,947,000

Part B

Lender	Facility/Derivative	Currency
CITIBANK INTERNATIONAL PLC, SUCURSAL EN ESPAÑA	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
CITIBANK, N.A. NASSAU BAHAMAS BRANCH	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD

CITIBANK (BANAMEX USA)	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	MXN
CITIBANK, N.A. NASSAU BAHAMAS BRANCH, CITIGROUP GLOBAL MARKETS INC	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	USD
CITIBANK N.A. NASSAU, BAHAMAS BRANCH	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
Citibank N.A., Nassau Bahamas Branch	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
Citibank, N.A.	Several Bank Guarantees issued by Citibank	USD
	Derivatives:	
Citigroup Global Markets Inc as agent for Citibank, N.A.	EQ (ISDA Master Agreement dated: April 23rd, 2008)	USD

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CAISSE REGIONALE DE CREDIT AGRICOLE MUTUEL DE PARIS ET D'ILE-DE-FRANCE	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	20,000,000	20,000,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate	EUR	1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
DEUTSCHE BANK LUXEMBOURG S.A.	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	11,104,669	11,104,669

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
DRESDNER BANK AG	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	10,000,000	10,000,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate		JPY	98.43	
		EUR	1.2744	

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (Original Currency)
FORTIS BANK, MADRID	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	64,000,000	64,000,000
FORTIS BANK, MADRID	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	591,307,500	6,007,391

Part B

Lender	Facility/Derivative	Currency
FORTIS BANK, S.A. SUCURSAL EN ESPAÑA	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
FORTIS BANK S.A./N.V.	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
FORTIS BANK S.A./N.V, CAYMAN ISLANDS BRANCH	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
FORTIS BANK, S.A. SUCURSAL EN ESPAÑA	EUR 30 million, USD 25 million Fortis Multidivisa Bilateral Loan Agreement dated 28 August, 2006	EUR
FORTIS BANK, S.A. SUCURSAL EN ESPAÑA	Several Bank Guarantees issued by Fortis Bank, S.A.	EUR

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
CAJA DE AHORROS DE GALICIA	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	5,000,000	5,000,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate	JPY	98.43
	EUR	1.2744
	MXN	15.26
	AED	3.6732
	EGP	5.5973

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
HSBC BANK PLC, MADRID	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	45,750,000	45,750,000
HSBC BANK PLC, MADRID	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	1,918,243,896	19,488,407
HSBC MEXICO SA INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC	Promissory Note MXP739,385,880 HSBC Bank, dated 7 April 2009	MXN	739,385,880	48,452,548

Part B

Lender	Facility/Derivative	Currency
HSBC BANK PLC, SUCURSAL EN ESPAÑA	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
HSBC BANK, PLC SUCURSAL EN ESPAÑA	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	EUR

HSBC SECURITIES (USA) INC., HSBC MEXICO S.A. INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	MXN
HSBC MEXICO SA INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
HSBC BANK PLC - Madrid Branch	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
HSBC México, S.A., Institución de Banca Multiple, Grupo Financiero HSBC, acting through its Grand Cayman Branch	US$1,050,000,000 Senior Unsecured Dutch Loan “A & B” Agreement dated 2 June, 2008	USD
HSBC México, S.A., Institución de Banca Multiple, Grupo Financiero HSBC	Factoring (Cadenas Productivas)	MXN
HSBC México, S.A., Institución de Banca Multiple, Grupo Financiero HSBC	Overdraft (CEMEX Mexico)	MXN
HSBC MEXICO SA INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC	Overdraft (Empresas Tolteca)	MXN
HSBC MEXICO SA INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC	Overdraft (Petrocemex)	MXN
HSBC Bank plc	Asset Finance Leasing (CEMEX UK)	GBP

HSBC Bank plc	Debtors financing (CEMEX UK)	GBP
HSBC Bank plc	Credit cards (CEMEX UK)	GBP
HSBC Argentina	Leasing (Neoris Consulting)	ARS
HSBC BANK EGYPT S.A.E	Guarantee Line (Assuit Cement)	EGP
HSBC BANK EGYPT S.A.E	Overdraft (Assuit Cement)	EGP
HSBC BANK EGYPT S.A.E	Credit cards(Assuit Cement)	EGP
HSBC BANK EGYPT S.A.E	Overdraft (Cemex Ready Mix)	EGP
HSBC BANK EGYPT S.A.E	Guarantee (Cemex Ready Mix)	EGP
HSBC Bank Middle East Limited	Suppliers credit (RMC Topmix)	AED
HSBC Bank Middle East Limited	Overdraft (RMC Topmix)	AED
HSBC Bank Middle East Limited	Guarantees (RMC Topmix/Falcon/Supermix)	AED
HSBC Bank Middle East Limited	Trade line (RMC Topmix)	AED
HSBC Bank Middle East Limited	Credit cards (RMC Topmix)	AED
HSBC Bank Middle East Limited	FEX Line (RMC Topmix)	AED
HSBC Panama	Credit Cards (CEMEX Caribe)	USD

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
INSTITUTO DE CREDITO OFICIAL	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	62,500,000	62,500,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
IKB International S.A.	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	9,975,000	9,975,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate	JPY	98.43
	EUR	1.2744
	GBP	1.4314
	PLN	3.655
	MXN	15.26

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
ING Belgium SA, Sucursal en España	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	29,700,458	29,700,458
ING Belgium SA, Sucursal en España	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	1,918,243,896	19,488,407
ING Bank (México, S.A., Institución de Banca Múltiple)	MXN 447,202,272.50 Promissory Note maturing on 17 April 2009 from CEMEX, S.A.B. de C.V.	MXN	447,202,273	29,305,522

Part B

Lender	Facility/Derivative	Currency
ING BELGIUM S.A. SUCURSAL EN ESPAÑA	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
ING BELGIUM S.A. SUCURSAL EN ESPAÑA	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	EUR

ING BANK N.V.	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
ING BANK, N.V. (ACTING THROUGH ITS CURACAO BRANCH)	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
ING Bank NV-Willemstad Branch	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
ING Bank, N.V., acting through its Curacao Branch	US$1,050,000,000 Senior Unsecured Dutch Loan “A & B” Agreement dated 2 June, 2008	USD

Exchange Rate	EUR	1.2744	

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
INTESA SAN PAOLO SPA	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	19,445,000	19,445,000

Part B

Lender	Facility/Derivative	Currency

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
JPMORGAN CHASE BANK IBF	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	50,750,000	50,750,000
JPMORGAN CHASE BANK, N.A.	Promissory Note US$65,434,817 JPMorgan Chase, dated 17 Abril 2009	USD	65,434,817	65,434,817

Part B

Lender	Facility/Derivative	Currency
JPMORGAN CHASE BANK N.A., SUCURSAL EN ESPAÑA	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
JPMORGAN CHASE BANK, N.A.	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
JPMORGAN CHASE BANK, N.A.	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
JPMORGAN CHASE BANK, N.A.	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD

JPMORGAN CHASE BANK, N.A.	$20,000,000 promissory note due April 17, 2009 (cash collateral to be applied) representing closed out derivatives	USD
JPMORGAN CHASE BANK, N.A.	$45,434,817 promissory note due April 17, 2009 (no collateral) representing closed out derivates	USD
JPMORGAN CHASE BANK, N.A.	Various lines of credit	USD
JPMORGAN CHASE BANK, N.A.	US$80,000,000 bilateral agreement with Cemex Materials maturing April 1, 2011	USD
JPMORGAN CHASE BANK, N.A.	US$90,000,000 bilateral agreement with Cemex Materials maturing February 28, 2011	USD
JPMORGAN CHASE BANK, N.A.	$65,000,000 SBLC	USD
JPMORGAN CHASE BANK, N.A.	Several Stand By Letters of Credit	USD

Exchange Rate	EUR	1.2744	
	GBP	1.4314	

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
LLOYDS TSB BANK, PLC	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	28,645,956	28,645,956

Part B

Lender	Facility/Derivative	Currency
LLOYDS TSB BANK, PLC	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
LLOYDS TSB BANK PLC	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
LLOYDS TSB BANK PLC, SUCURSAL EN ESPAÑA	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	EUR
LLOYDS TSB BANK PLC	Asset Finance Lesing (CEMEX UK)	GBP
LLOYDS TSB BANK PLC	Asset Finance Lesing (CEMEX France)	EUR

Exchange Rate	EUR	1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
Merrill Lynch	Promissory Note US$34,072,566 Merrill Lynch, dated 6 April 2009	USD	34,072,566	34,072,566

Part B

Lender	Facility/Derivative	Currency

Exchange Rate	JPY	98.43
	GBP	1.4314
	EUR	1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
The Royal Bank of Scotland plc	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	50,750,000	50,750,000
The Royal Bank of Scotland plc	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	1,918,243,896	19,488,407
The Royal Bank of Scotland PLC	Promissory Note US$4,504,861 Royal Bank of Scotland, dated 6 April 2009	USD	4,504,861	4,504,861

Part B

Lender	Facility/Derivative	Currency
THE ROYAL BANK OF SCOTLAND	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
THE ROYAL BANK OF SCOTLAND PLC	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	USD
THE ROYAL BANK OF SCOTLAND PLC	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
THE ROYAL BANK OF SCOTLAND PLC	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
The Royal Bank of Scotland PLC	US$1,050,000,000 Senior Unsecured Dutch Loan “A & B” Agreement dated 2 June, 2008	USD
National Westminster Bank plc	Multi Line Facility (Overdraft)	GBP

Exchange Rate	JPY	98.43
	EUR	1.2744
	MXN	15.26

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
Banco Santander Central Hispanos, S.A.	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	59,154,817	59,154,817
Banco Santander Central Hispanos, S.A.	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	1,918,243,896	19,488,407

Part B

Lender	Facility/Derivative	Currency
BANCO SANTANDER, S.A.	US$6,000,000,000 (originally US$9,000,000,000) Aquisition Facilities Agreement dated 6 December, 2006 (as amended)	USD
BANCO SANTANDER S.A.	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	EUR
BANCO SANTANDER S.A.	US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	USD

SANTANDER OVERSEAS BANK INC	US$700,000,000 Term and Revolving Facilities Agreement dated 27 June, 2005	USD
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	MXN
SANTANDER INVESTMENTS SECURITIES INC,	US$437,500,000 & MXN4,773,282,950 Joint Bilateral Financing Credit Agreement dated 27 January, 2009	USD
BANCO SANTANDER CENTRAL HISPANO S.A. NEW YORK BRANCH	US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	USD
BANCO SANTANDER CENTRAL HISPANO, SA NEW YORK BRANCH	US$1,200,000,000 Credit Agreement dated 31 May 2005	USD
Banco Santander S.A.	US$1,050,000,000 Senior Unsecured Dutch Loan “A & B” Agreement dated 2 June, 2008	USD
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	TRADE LINE HOLDING	MXN
Banco Santander S.A.	Renting	EUR
Banco Santander S.A.	Guarantees	EUR
Banco Santander S.A.	Confirming	EUR
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	Leasing	MXN
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	Confirming	MXN
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	Corporate Bonds	MXN
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	Corporate Loan	MXN
Banco Santander Colombia	Working Capital Facilities	COP
Banco Santander Rio	Working Capital Facilities	AR$
BANCO SANTANDER, S.A.	Several Stand By Letters of Credit issued by Banco Santander, S.A.	USD

Derivatives:

	Transaction N°	Transaction	Transaction	
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974942	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974943	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974944	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974945	EQD OTC Options	6/6/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974948	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974949	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974951	EQD OTC Options	6/12/2008	USD

Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974953	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974956	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10974965	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10975124	EQD OTC Options	6/3/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	10975176	EQD OTC Options	6/12/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	9802032	Equity Forwards	10/13/2008	USD
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	9802069	Equity Forwards	10/13/2008	USD

Exchange Rate

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
SCOTIABANK EUROPE, PLC, LONDON	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	24,141,450	24,141,450

Part B

Lender	Facility/Derivative	Currency

Exchange Rate	JPY	98.43
	EUR	1.2744
	HRK	5.8098

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
SOCIETE GENERALE, NEW YORK	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	10,000,000	10,000,000
SOCIETE GENERALE, NEW YORK	Euro 250,000,000 and JPY19,308,000,000 Term and Revolving Facilities Agreement dated 30 March, 2004 (as amended)	JPY	2,368,202,341	24,059,762

Part B

Lender	Facility/Derivative	Currency
SOCIETE GENERALE		
SOCIETE GENERALE		
SOCIETE GENERALE		
SOCIETE GENERALE SA		
SOCIETE GENERALE SA		
Societe Generale Equipment Finance Sp. z o.o		
Societe Generale - Splitska banka d.d.		
SOCIETE GENERALE		

Exchange Rate	AED	3.6732
	PHP	48.80
	THB	35.775
	BDT	68.25
	MYR	3.673

Part B

Lender	Facility/Derivative	Currency
Standard Chartered Bank	Promissory Note US$45,329,600 Standard Chartered Bank, dated 24 April 2009	USD

Exchange Rate	EUR	1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
UNICREDIT S.P.A.	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	20,000,000	20,000,000

Part B

Lender	Facility/Derivative	Currency
UNICREDIT S.P.A.	CZK 2,810,000 Bilateral Line due 31 December 2009	CZK

Exchange Rate	MXN	15.26
	EUR	1.2744

Part A

Lender	Facility/Derivative	Currency	Exposure Original CCY	Total Exposure for Lender (US$)
WEST LB AG, SUCURSAL EN ESPAÑA	US$2,300,000,000 (originally US$3,800,000,000) Revolving Facilities Agreement dated 24 September, 2004 (as amended)	USD	50,750,000	50,750,000

Part B

Lender	Facility/Derivative	Currency

Australia and New Zealand Banking Group Limited

ANZ
New York Branch
1177 Avenue of the Americas, 6th Floor, New York, N.Y. 10036-2798

Tel: (212) 801-9800, Fax: (212) 801-9859
S.W.I.F.T. ANZBUS33

To: G14 Members
c/o Cleary Gottlieb Steen & Hamilton LLP

By Email June 23, 2009

Dear Sirs

CEMEX (Conditional Waiver and Extension Agreement)

Reference is made to (1) the Conditional Waiver and Extension Agreement dated 16 April 2009 among the G12 Members, CEMEX, S.A.B. de C.V. and CEMEX España, S.A. (the "**CWEA**"), (2) our letter dated March 24, 2009 addressed by Australia and New Zealand Banking Group Limited (" **ANZ**") to the G12 Members c/o Clifford Chance, and (3) our letters dated April 23, 2009 and May 28, 2009 addressed by ANZ to the G12 Members c/o Clifford Chance.

Please note that ANZ has received internal approval to provide the extensions and waivers set out in sub paragraph 3.1 of paragraph 3 of the CWEA for an additional period from June 24, 2009 until the earlier of (i) July 31, 2009 and (ii) the date on which any of the shares or assets of CEMEX Australia Pty Limited are sold, directly or indirectly, to Holcim Ltd. or any of its affiliates (such earlier date, the " **ANZ Expiration Date**"). Therefore, with respect to ANZ, the Relevant Period for the purposes of paragraph (a) of the definition of "Relevant Period" in the CWEA shall now end on the ANZ Expiration Date.

Yours sincerely,

Australia and New Zealand Banking Group Limited

/s/ [ILLEGIBLE]
Director

Exhibit 4.33

BOOK ONE THOUSAND NINE HUNDRED AND FORTY-NINE

ONE HUNDRED AND SIXTEEN THOUSAND THREE HUNDRED AND EIGHTY

MEXICO CITY, FEDERAL DISTRICT, as of April twenty two, two thousand and nine.

JOSE ANGEL VILLALOBOS MAGAÑA, in my capacity of notary public number nine in and for the Federal District, DO HEREBY ATTEST, as to the granting of:

I).- THE REVOLVING LOAN AGREEMENT entered into by and between "BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO, as Lender, and hereinafter referred to as " BANOBRAS", represented herein by its agent, Lusi Daniel Robles Ferrer; and by "CEMEX CONCRETOS", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, as Borrower, hereinafter referred to as "CEMEX", represented herein by its agents, Francisco Guillermo Gómez Tamayo and Eduardo Salaburu Llamas;

II).- A FIRST PRIORITY CIVIL MORTAGE granted by "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIBALE, as "Mortgagor", represented herein by its agents, Francisco Guillermo Gomez Tamayo and Eduardo Salaburu Llamas, in favor of "BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO, hereinafter referred to as the "Mortgagee", represented by the above named agents;

III).- A FIRST PRIORITY INDUSTRIAL MORTGAGE created and granted consistent with the terms of article sixty-seven of the Law of Banking Institutions by "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE as mortgagor, and hereinafter referred as the "Mortgagor", represented by the above named agents, for the benefit of "BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO hereinafter referred to as the " Mortgagee", represented by the above named agents, pursuant to the following preamble, recitals, chapters and clauses:

PREAMBLE

A).- A CERTAIN PIECE OF LAND SEGREGATED IN PART FROM THE TRACT KNOW AS PLAZA DE ARMAS, AND [SEGREGATED] IN PART FROM THE TRACT KNOWN AS WILLARD OR EL REPRESO, IN THE MUNICIPALITY OF LA COLORADA, STATE OF SONORA.

I.- By means of public instrument number eleven thousand eight hundred and eight, dated as of March two of nineteen eighty-nine, granted by and before attorney Cesar Tapia Quijada, notary public number fifty-eight in and for Hermosillo, State of Sonora, the first charter of which was filed in the Public Registry of Property of Hermosillo, State of Sonora, as of July the third, nineteen eighty-nine, under log entry number one hundred and sixty-five thousand one hundred twenty-one, first section, volume two hundred ninety-six, "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, acquired title to ONE PORTION OF THAT CERTAIN PIECE OF LAND SEGREGATED IN PART FROM THE TRACT KNOWN AS PLAZA DE ARMAS, AND SEGREGATED IN PART FROM THE TRACT KNOWN AS WILLARD OR EL REPRESO, IN THE MUNICIPALITY OF LA COLORADA, STATE OF SONORA, HAVING A SURFACE AREA OF ONE HUNDRED EIGHTY-FOUR HECTARES NINETY NINE AREAS AND NINETY EIGHT DOT EIGHT CENTIARES, having the following metes and bounds, as per the relevant title instrument:

" . . . From point number 0 (zero) to point number 1 (one), bound to S41°31'16'E (forty one degrees thirty-one minutes and sixteen seconds southeast), with a length of 58.38 (fifty-eight meters and thirty-eight centimeters), adjoining to the piece of land known as "San Francisco"; form point number 1 (one) to point 2

number (two), bound to S35°20’57”W (thirty-five degrees twenty minutes and fifty-seven seconds southwest), with a length of 10.25 (ten meters and twenty-five centimeters), adjoining to the piece of land known as “San Francisco”; from point number 2 (two) to point number 3 (three), bound to S41°01’14”W (forty-one degrees one minute and fourteen seconds southwest), with a length of 41.06 (forty-one meters and six centimeters) adjoining to an “Unnamed” piece of land; from point number 3 (three) to point number 4 (four), bound to S48°28’30”W (forty-eight degrees twenty-eight minutes and thirty seconds southwest), with a length of 20.18 (twenty meters and eighteen centimeters) and adjoining to an “Unnamed” piece of land; from point number 4 (four) to point number 5 (five), bound to S39°11’40”E (thirty-nine degrees eleven minutes and forty seconds southeast), with a length of 126.38 (one hundred and twenty-six meters and thirty-eight centimeters) and adjoining to an “Unnamed” piece of land; from point number 5 (five) to point 6 number (six), bound to S28°09’26”E (twenty-eight degrees nine minutes and twenty-six seconds southeast), with a length of 13.52 (thirteen meters and fifty-two centimeters) and adjoining to an “Unnamed” piece of land; from point number 6 (six) to point number 7 (seven), bound to S20°24’39”E (twenty degrees twenty-four minutes and thirty-nine seconds southeast), with a length of 225.06 (two hundred and twenty-five meters and six centimeters) and adjoining to an “Unnamed” piece of land; form point number 7 (seven) to point number 8 (eight), bound to S20°00’13”E (twenty degrees zero minutes and thirteen seconds southeast), with a length of 544.32 (five hundred and forty-four meters and thirty-two centimeters) and adjoining to an “Unnamed” piece of land; from point number 8 (eight) to the point “D” bound to S12°55’18”W (twelve degrees fifty-five minutes and eighteen seconds southwest), with a length of 1,144.15 (verbatim) (one thousand one hundred forty-four meters and thirteen *(sic)* centimeters) and adjoining to an “Unnamed” piece of land; from the point “D” to the point “C”, bound to S70°47’04”W (seventy degrees forty-seven minutes and four seconds southwest), with a length of 452.77 (four hundred and fifty-two meters and seventy-seven centimeters) and adjoining to a piece of land owned by Luis Rodriguez Lugo; form the point “C” to the point “B”, bound to S70°47’04”W (seventy degrees forty-seven minutes and four seconds southwest), with a length of 180.49 (one hundred and eighty meters and forty-nine centimeters) and adjoining to various pieces of land owned by Luis Rodriguez Lugo; from the point “B” to the point “A”, bound to S5°34’49”E (five degrees thirty-four minutes and forty-nine seconds southeast), with a length of 205.16 (two hundred and five meters and sixteen centimeters) and adjoining to a piece of land owned by Luis Rodriguez Lugo; from the point “A” to point number 10 (ten), bound to S83°54’06”W (eighty-three degrees fifty-four minutes and six degrees southwest), with a length of 370.09 (three hundred and seventy meters and nine centimeters), and adjoining to “Rancho Las Glorias”; from point number ten to point number eleven, bound to N21°49’07”W (twenty-one degrees forty nine minutes and seven seconds northwest), with a length of 1,003.74 (one thousand and three meters and seventy-four centimeters) and adjoining to the railroad spur of Ferrocarril del Pacifico; from point number 11 (eleven) to point number 12 (twelve) bound to N68°07’59”E (sixty-eight seconds (verbatim) seven minutes and fifty-nine seconds northeast), with a length of 659.68 (six hundred and fifty-nine meters and sixty-eight centimeters), and adjoining to a piece of land known as “Willard”; from point number 12 (twelve) to point number 13 (thirteen), bound to N24°11’00”E (twenty-four degrees eleven minutes and zero seconds northeast), with a length of 1,393.33 (one thousand three hundred and ninety-three meters and thirty-three centimeters) and adjoining to the piece of land known as “Willard”; from point number 13 (thirteen) to point number 14 (fourteen), bound to N46°35’48”E (forty-six degrees thirty-five minutes and forty-eight seconds northeast), with a length of 16.24 (sixteen meters and twenty-four centimeters) and adjoining to the piece of land known as “Willard”; form point number 14 (fourteen) to point number 15 (fifteen), bound to N46°35’40”E (forty-six degrees thirty-five minutes and forty-seconds northeast), with a length of 40.66 (forty meters and sixty-six centimeters) and adjoining to a piece of land known as “Willard” and with Rancho San Francisco”; from point number 15 (fifteen) to point number 0 (zero), bound to N46°35’45”E (forty-six degrees thirty-five minutes and forty-five seconds northeast), with a length of 11.93 (eleven meters and ninety-three centimeters) and adjoining to the piece of land known as “Rancho San Francisco. A survey of the above described real property is submitted hereto …”

II.- By means of public instrument number eleven thousand nine hundred and fifty-four, dated as of March thirty of two thousand, before attorney Cesar Augusto Morales, acting as deputy of the notary public number twenty-two in and for the city of Hermosillo, State of Sonora, "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, conveyed title of the piece of real property referred to in section I of the preamble, to "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, including the industrial cement plant together with all of the machinery and equipment, with such conveyance of title ensuing from a certain merger agreement.

III.- By means of public instrument number twelve thousand one hundred and fifty-seven, dated as of February nine of two thousand, before the above referred notary public, the first charter of which was filed in the Public Registry of Property of Hermosillo, State of Sonora, as of March eighteen of two thousand and two, under log entry number two hundred and seventy-six thousand five hundred and forty-three, section of Real Property, first book, volume six thousand six hundred and seventy-three, "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CPAITAL VARIABLE, complemented and rectified the public instrument described in the preceding paragraph, containing conveyance of title of the real property described in section I of the preamble of this instrument, and ensuing from a certain merger agreement with, and in favor of, "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE.

IV.- The "MORTGAGOR" hereby declares that the real property described section I of the preamble of this instrument, is free and clear of any and all liens and is up to date in the payment of taxes accruing thereon, a situation substantiated with the following materials:

A.- As to the first issue, with the certificate of no liens, filed with the Public Registry of Property of Hermosillo, Sonora, as of April seventeen of two thousand and nine, which is attached to the appendix of this instrument under the letter "A".

B.- As to the second issue:

a.- With that certain bill of payment bearing land code number:

"1703D5110105" (one seven zero three D five one one zero one zero five), a copy of which is attached to the appendix of this instrument under the letter "B".

Furthermore, said real property has no other bills of rights for water service.

b.- With the certificate of no debts as to real property taxes accruing on the real property described in the section I of the preamble of this instrument, which is attached to the appendix of this instrument under the letter "C".

B).- A CERTAIN PIECE OF LAND LOCATED IN LA COLORADA STATE OF SONORA.

V.- By means of public instrument number thirty-three thousand two hundred and thirty-five, dated as of June eighteen, nineteen eighty-nine, before attorney Carlos Cabrera Muñoz, notary public number eleven in and for the city of Hermosillo, State of Sonora, the first charter of which was filed with the Public Registry of Property of Hermosillo, State of Sonora, on February eight nineteen ninety, under log entry number, one hundred and sixty-eight thousand four hundred and fifty, first section, volume two hundred and ninety-eight; "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, acquired title to that certain PORTION OF LAND LOCATED IN LA COLORADA, STATE OF SONORA, with a land surface area of ONE HUNDRED HECTARES, having the following metes and bounds, as per the relevant title instrument:

" . . . From point "A", bound to N81°44'E (eighty-one degrees and forty-four minutes northeast) with a length of 1,280.48 (one thousand two hundred and eighty meters and forty eight centimeters), adjoining with the remainder of the west portion, where it reaches point "B", from this point, bound to N8°16'W (eight degrees and sixteen minutes northwest) with a length of 661.27 (six hundred and sixty-one meters and twenty-seven minutes *(sic)*, adjoining with the remainder West portion, where it reaches point "C"; from this point, bound to S75°26'W (seventy-five degrees and twenty-six minutes southwest), with a length of 87.06 (eighty-seven meters and six centimeters) adjoining with a certain private property, where it reaches point number 60 (sixty); from this point bound to S75°26'W (seventy-five degrees and twenty-six minutes southwest), with a length of 286.05 (two hundred and eighty-six meters and five centimeters), adjoining with a certain private property, where it reaches point number 61 (sixty-one); from this point bound to S70°55'W (seventy degrees and fifty-five minutes southwest), with a length of 993.70 (nine hundred and ninety-three meters and seventy centimeters), adjoining with a certain private property, where it reaches point number 64 (sixty-four); from this point, with a length of 636.96 (six hundred and thirty-six meters and ninety-six centimeters), adjoining with Ejido Torres, until it reaches the point "A", that is, the starting point, and closing the polygon …"

VI.- By means of public instrument number one thousand nine hundred and fifty-three, dated as of March thirty of two thousand, before attorney Cesar Augusto Morales Mujica, deputy notary public of the notary public number twenty two in and for the city of Hermosillo, State of Sonora, the first charter of which was filed with the Public Registry of Property of Hermosillo, State of Sonora, on June eight of two thousand, under log entry number two hundred and fifty-four thousand four hundred and thirty, section of Real Property, book number one, volume number four thousand three hundred and sixty-six; "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, conveyed title of the piece of real property referred to in the preceding paragraph to "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, with such conveyance of title ensuing from a certain merger agreement.

VII.- The "MORTGAGOR" hereby declares that the real property described in section five of the preamble of this instrument, is free and clear of any and all liens and is up to date in the payment of taxes accruing thereon, a situation substantiated with the following materials:

A.- As to the first issue, with the certificate of no liens, filed with the Public Registry of Property of Hermosillo, Sonora, as of April seventeen of two thousand and nine, which is attached to the appendix of this instrument under the letter "D".

B.- As to the second issue:

a.- With that certain bill of payment bearing land code number:

"1703D6240087" (one seven zero three D six two four zero zero eight seven), a copy of which is attached to the appendix of this instrument under the letter "E".

Furthermore, said real property has no other bills of rights for water service.

b.- With the certificate of no debts as to real property taxes accruing on the real property described in the section five of the preamble of this instrument, which is attached to the appendix of this instrument under the letter "F".

C).- A CERTAIN "UNNAMED" PIECE OF LAND LOCATED APROXIMATELY AT KILOMETER SEVENTEEN POINT FIVE OF THE ROAD TO HERMOSILLO LA COLORADA, STATE OF SONORA.

VIII.- By means of public instrument number eleven thousand eight hundred and seven, dated as of March two of nineteen eighty-nine, before attorney Cesar Tapia Quijada, notary public number fifty-eight in and for the city of Hermosillo, State of Sonora, the first charter of which was filed with the Public Registry of Property of Hermosillo, State of Sonora, on April twenty-six of nineteen ninety one, under log entry number one hundred and seventy-six thousand four hundred and ninety-two, first section, volume two hundred and thirty-one, "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, acquired title to a CERTAIN "UNNAMED" PIECE OF LAND LOCATED APROXIMATLEY AT KILOMETER SVENETEN POINT FIVE OF THE ROAD TO HERMOSILLO, LA COLORADA, STATE OF SONORA, with a surface area of FIFTEEN HECTARES, having the following metes and bounds, as per the relevant title instrument:

" . . . From point number 1 (one) to point number 2 two, bound to S48°28'30'W (forty-eight degrees twenty-eight minutes and thirty seconds southwest), with a length of 20.18 (twenty meters and eighteen centimeters), adjoining with the piece of land known as Willard and/or El Represo; from point number 2 (two) to point number 3 (three), bound to S39°11'40"E (thirty-nine degrees eleven minutes and forty seconds southeast), with a length of 126.38 (one hundred and twenty-six meters and thirty-eight centimeters), adjoining with the piece of land known as "Willard" and/or El Represo; from point number 3 (three) to point number 4 (four), bound to S28°09'26"E (twenty-eight degrees nine minutes and twenty-six seconds southeast), with a length of 13.52 (thirteen meters and fifty-two centimeters), adjoining with the piece of land known as "Willard" and/or El Represo; from point number 4 (four) to point number 5 (five), bound to S20°24'39"E (twenty degrees twenty-four minutes and thirty nine seconds southeast), with a length of 225.06 (two hundred and twenty-five meters and six centimeters), adjoining with the piece of land known as "Willard" and/or El Represo; from point number 5 (five) to point number 6 (six), bound to S20°00'13"E (twenty degrees zero minutes and thirteen seconds southeast), with a length of 544.32 (five hundred and forty-four meters and thirty-two centimeters), adjoining with the piece of land known as "Willard" and/or El Represo, from point number 6 (six) to point number 7 (seven), bound to N62°31'30"E (sixty-two degrees thirty-one minutes and thirty seconds northeast), with a length of 350.35 m (three hundred and fifty meters and thirty five centimeters), adjoining with the piece of land known as Rancho La Gloria owned by Ms. Lucia Lohr de Rodriguez Lugo; from point number seven to point number one, which was the starting point to close the polygon bound to N43° 23' 32"W, with a length of 938.29 (nine hundred and thirty-eight meters and twenty-nine centimeters) and adjoining with the piece of land known as San Francisco with the Hermosillo La Colorada road in between. . ."

IX.- By means of public instrument number eleven thousand nine hundred and fifty-eight, dated as of March thirty of two thousand, before attorney Cesar Augusto Morales Mujica, deputy notary public of the notary public number twenty two in and for the city of Hermosillo, State of Sonora, the first charter of which was filed with the Public Registry of Property of Hermosillo, State of Sonora, on May twenty-six of two thousand, under log entry number two hundred and fifty-four thousand and thirty-eight, section of Real Property, book number one, volume number four thousand three hundred and twenty-five, "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, conveyed title of the piece of real property referred to in the preceding paragraph to "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, with such conveyance of title ensuing from a certain merger agreement.

X.- The "MORTGAGOR" hereby declares that the real property described in roman numeral eight of the preamble of this instrument, is free and clear of any and all liens and is up to date in the payment of taxes accruing thereon, a situation substantiated with the following materials:

A.- As to the first issue, with the certificate of no liens, filed with the Public Registry of Property of Hermosillo, Sonora, as of April sixteen of two thousand and nine, which is attached to the appendix of this instrument under the letter "G".

B.- As to the second issue:

a.- With that certain bill of payment bearing land code number:

“1703D5110084” (one seven zero three D five one one zero zero eight four), a copy of which is attached to the appendix of this instrument under the letter “H”.

Furthermore, said real property has no other bills of rights for water service.

b.- With the certificate of no debts as to real property taxes accruing on the real property described in the section five of the preamble of this instrument, which is attached to the appendix of this instrument under the letter “I”.

D).- A CERTAIN RURAL PIECE OF LAND LOCATED IN THE MUNICIPALITY OF LA COLORADA, STATE OF SONORA.

XI.- By means of public instrument number eleven thousand eight hundred and six, dated as of March the second of nineteen eighty-nine, before attorney Cesar Tapia Quijada, notary public number fifty-eight in and for the city of Hermosillo, State of Sonora, the first charter of which was filed in the Public Registry of Property of Hermosillo, State of Sonora, on June sixteen of nineteen eighty-nine, under log entry number one hundred and sixty four thousand eight hundred and forty-six, first section, volume two hundred and ninety-two, “CEMENTOS DEL YAQUI”, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, acquired title to that certain RURAL PIECE OF LAND LOCATED IN THE MUNICIPALITY OF LA COLORADA, STATE OF SONORA, AT KILOMETER SEVENTEEN OF THE ROAD TO HERMOSILLO LA COLORADA, with a surface area of ONE THOUSAND SEVEN HUNDRED AND EIGHTY HECTARES, having the following metes and bounds, as per the relevant title instrument:

“ . . . From point number 0 (zero) to point number 1 (one), bound to N39°41’E (thirty-nine degrees and forty-one minutes northeast), with a length of 11.00 (eleven meters); from this point to point number 2 (two), bound to N43°30”W (forty-three degrees and thirty minutes northwest), with a length of 57.26 (fifty-seven meters and twenty-six centimeters); from this point to the vertex of the portion sold to Parque Industrial de Hermosillo, bound to N20°07’W (twenty degrees and seven minutes northwest), with a length of 2,267.29 (two thousand two hundred and sixty-seven meters and twenty-nine centimeters), adjoining to the southwest with the piece of land known as Willard; from this point bound to N62°53’E (sixty-two degrees and fifty-three minutes northeast), with a length of 415.00 (four hundred and fifteen meters), adjoining to the northwest with land owned by Parque Industrial de Hermosillo; from this point bound to N20°07’W (twenty degrees and seven minutes northwest), with a length of 485.50 (four hundred and eighty-five meters and fifty centimeters), adjoining to the Southwest with land owned by Parque Industrial de Hermosillo; from this point bound to S62°53’W (sixty-two degrees and fifty-three minutes southwest), with a length of 415.00 (four hundred and fifteen meters), adjoining to the Southeast with property of Parque Industrial de Hermosillo; from this point to point number 3 (three), bound to N20°08’ (verbatim) W (twenty degrees and seven (*sic*) minutes northwest), with a length of 432.00 (four hundred and thirty-two meters), adjoining to the Southeast with the piece of land known as Willard; from point number 3 (three) to point number 4 (four), bound to S86°12’E (eighty-six degrees and twelve minutes southeast), with a length of 810.80 (eight hundred and ten meters and eighty centimeters); from point number 4 (four) to point number 5 (five), bound to S31°13’ (*sic*) (thirty-one degrees and thirteen minutes southeast), with a length of 83.56 (eighty-three meters and fifty-six centimeters); from point number 5 (five) to point number 6 (six), bound to S38°48’E (thirty-eight degrees and forty-eight minutes southeast), with a length of 87.81 (eighty-seven meters and eighty-one centimeters); from point number 6 (six) to point number 7 (seven), bound to S60°03’E (sixty degrees and three minutes southeast), with a

length of 70.31 (seventy meters and thirty-one centimeters); from point number 7 (seven) to point number 8 (eight), bound to S51°06'E (fifty-one degrees and six minutes southeast), with a length of 658.93 (six hundred and fifty-eight meters and ninety-three centimeters); from point number 8 (eight) to point number 9 (nine), bound to N52°25'E (fifty-two degrees and twenty five minutes northeast), with a length of 73.75 (seventy-three meters and seventy-five centimeters); from point number 9 (nine) to point number 10 (ten), bound to N19°44'E (nineteen degrees and forty-four minutes northeast), with a length of 149.46 (one hundred and forty-nine meters and forty-six centimeters); from point number 10 (ten) to point number 11 (eleven), bound to N02°52'E (two degrees and fifty-two minutes northeast), with a length of 80.45 (eighty meters and forty-five centimeters); from point number 11 (eleven) to point number 12 (twelve), bound to N18°06'W (eighteen degrees and six minutes northwest), with a length of 75.80 (seventy-five meters and eighty centimeters); from point number 12 (twelve) to point number 13 (thirteen), bound to N15°10'E (fifteen degrees and ten minutes northeast), with a length of 94.50 (ninety-four meters and fifty centimeters); from point number 13 (thirteen) to point number 14 (fourteen), bound to N41°23'E (forty-one degrees and twenty three centimeters *(sic)* northeast), with a length of 181.44 (one hundred and eighty-one meters and forty-four centimeters), from point number 14 (fourteen) to point number 15 (fifteen), bound to N41°23'E (forty-one degrees and twenty-three minutes northeast), with a length of 181.44 (one hundred and eighty-one meters and forty-four centimeters), from point number 14 (fourteen) to point number 15 (fifteen), bound to N04°59'E (four degrees and fifty-nine minutes northeast), with a length of 89.23 (eighty-nine meters and twenty-three centimeters); from point number 15 (fifteen) to point number 16 (sixteen), bound to N16°03'W (sixteen degrees and three minutes northwest), with a length of 75.00 (seventy-five meters), adjoining, on the first side, with Rancho San Isidro, and on the remainder sides with Calera Willard; from this point to point number 17 (seventeen), bound to N76°05'E (seventy-six degrees and five minutes northeast), with a length of 188.00 (one hundred and eighty-eight meters); from this point, to point number 18 (eighteen) bound to N78°20'E (seventy-eight degrees and twenty minutes northeast), with a length of 3,956.00 (three thousand nine hundred and fifty-six meters), adjoining on the Northeast with Rancho San Isidro de Eduardo Muñoz Camou; from this point to point number 19 (nineteen), bound to S17°07'E (seventeen degrees and seven minutes southeast), with a length of 927.58 (nine hundred and twenty-seven meters and fifty-eight centimeters), adjoining on the Northeast side with Land Bojórquez or El Bajío; from this point to point number 20 (twenty), bound to S28°57'W (twenty-eight degrees and fifty-seven minutes southwest), with a length of 2,439.12 (two thousand four hundred and thirty-nine meters and twelve centimeters), adjoining on the Southeast with Rancho El Rosario de Magdalena E, *(sic)* de Aguayo; from this point to point number 21' (twenty-one premium), bound to S38°33'E (thirty-eight degrees and thirty-three minutes southeast), with a length of 486.25 (four hundred and eighty six meters and twenty-five centimeters), adjoining on the Northeast with Rancho El Rosario; from this point to point number 22' (twenty-two premium), bound to S57°49'48"W (fifty-seven degrees forty-nine minutes and forty-eight seconds southwest), with a length of 3,369.16 (three thousand three hundred and sixty-nine meters and sixteen centimeters), adjoining on the Southeast with a private property; and from this point to the point number 0 (zero), which was the starting point, bound to N43°48'W (forty three degrees forty eight minutes west (*sic*)), in 1,697.50 (one thousand six hundred and ninety-seven meters and fifty centimeters), adjoining with Road to La Colorada. . . ."

XII.- By means of public instrument number eleven thousand nine hundred and fifty-five, dated as of March thirty of two thousand, before attorney Cesar Augusto Morales, acting as deputy to the notary public number twenty-two of Hermosillo, State of Sonora, "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, conveyed title of the piece of real property referred to in the roman numeral eleven above to "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, including the industrial cement plant together with all of the machinery and equipment, with such conveyance of title ensuing from a certain merger agreement.

XIII.- By means of public instrument number twelve thousand one hundred and sixty, dated as of February nine of two thousand, before the above referred notary public, the first charter of which was filed in the Public Registry of Property and Hermosillo, State of Sonora, as of March twenty of two thousand and two, under log entry number two hundred and seventy six thousand six hundred and thirty-seven, section of Real Property, first book, volume six thousand six hundred and eighty-two, "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CPAITAL VARIABLE, complemented and rectified the public instrument described in the preceding paragraph, containing conveyance of title of the real property described in the preceding paragraph, and ensuing from a certain merger agreement with, and in favor of, "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE.

XIV.- The "MORTGAGOR" hereby declares, that the real property described in the roman numeral eleventh above of this instrument, is free and clear of any and all liens and is up to date in the payment of taxes accruing thereon, a situation substantiated with the following materials:

A.- As to the first issue, with the certificate of no liens, filed with the Public Registry of Property of Hermosillo, Sonora, as of April seventeen of two thousand and nine, which is attached to the appendix of this instrument under the letter "J".

B.- As to the second issue:

a.- With that certain bill of payment bearing land code number:

"1703D5110006" (one seven zero three D five one one zero zero zero six), a copy of which is attached to the appendix of this instrument under the letter "K".

Furthermore, said real property has no other bills of rights for water service.

b.- With the certificate of no debts as to real property taxes accruing on the real property described in the roman numeral eleventh of the preamble of this instrument, which is attached to the appendix of this instrument under the letter "L".

XV.- The fair market value of those pieces of real properties identified in roman numerals one, five, eight and eleven of the preamble of this instrument, including the improvements and other fixtures comprising the Cement Processing Plant known as "El Yaqui" and owned by the "Mortgagor", is in the amount of $4,104,410,774.00 (FOUR THOUSAND ONE HUNDRED AND FOUR MILLION FOUR HUNDRED AND TEN THOUSAND AND SEVEN HUNDRED AND SEVENTY-FOUR PESOS, 00/100 MEXICAN CURRENCY), as per appraisal number two thousand nine slash zero six hundred and seventeen, performed as of March thirteen of two thousand and nine, for an amount of $2,821,868,000.00 (TWO THOUSAND EIGHT HUNDRED AND TWENTY-ONE MILLION EIGHT HUNDRED AND SIXTY-EIGHT THOUSAND PESOS 00/100, MEXICAN CURRENCY), and the complement thereof with number two thousand nine slash zero eight hundred and sixty-five, dated as of April sixteen of two thousand and nine, for an amount of $1,282,542,774.00 (ONE THOUSAND TWO HUNDRED AND EIGHTY-TWO MILLION FIVE HUNDRED AND FORTY TWO THOUSAND SEVEN HUNDRED AND SEVENTY-FOUR PESOS 00/100, MEXICAN CURRENCY), performed by the appraisal area of "BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, which are attached to the appendix of this instrument under the letters "M one" and "M two".

XVI.- As of April fourteen of two thousand and eight, "CEMEX" entered into that certain administrative agreement number DA-05-2008 (DA dash zero five dash two zero zero eight), with the Government of the Federal District, hereinafter referred to as GDF, for long term rendering of services for urban improvement

and integral maintenance of the interior circuit of Mexico City, hereinafter referred to as the MEXICO CITY AGREEMENT, the purpose of which is the rehabilitation of the road surface of the central and side lanes of the main street, based upon hydraulic concrete; public lighting; signposting; central and lateral sidewalks; including the regeneration of green areas adjacent to such circuit, for an amount of $3,279,810,436.25 (THREE THOUSAND TWO HUNDRED AND SEVENTY-NINE MILLION EIGHT THOUSAND AND TEN AND FOUR HUNDRED AND THIRTY-SIX PESOS 25/100, MEXICAN CURRENCY), inclusive of Value Added Tax, hereinafter referred to as VAT; provided that the payments were to be made in five equal annual installments, [payable] no later than the last day of the month of November of each fiscal year of TWO THOUSAND AND EIGHT, TWO THOUSAND AND NINE, TWO THOUSAND AND TEN and TWO THOUSAND AND ELEVEN, and as to the fiscal year of TWO THOUSAND AND TWELVE, no later than the last day of the month of October. The MEXICO CITY AGREEMENT provides the obligation of "CEMEX" to carry out the works and the rendering of urban improvement and maintenance services, and the obligation of GDF to pay the consideration set forth therein and issue performance monthly reports and target conclusion certificates, hereinafter referred to as the GDF CERTIFICATES.

XVII.- As of September two of two thousand and eight, "CEMEX" entered into that certain fixed term and deferred payments—unitary prices financed public works agreement, number SCEM-JC-08AGIS-164-0F (SCEM dash JC dash zero eight dash AGIS dash one six four dash zero F), with the State Board of Highways of the State of Mexico, hereinafter referred to as the BOARD, of the Government of the State of Mexico, and hereinafter referred to as the MEXICO STATE CONSTRUCTION AGREEMENT, the purpose of which is the execution of construction works of that certain project known as REHABILITATION OF THE JOSE LOPEZ PORTILLO HIGHWAY, for an amount of $655,000,000.00 (SIX HUNDRED AND FIFTY-FIVE MILLION PESOS 00/100, MEXICAN CURRENCY), plus relevant Value Added Tax, regular interests, and late interests, to the extent applicable. The MEXICO STATE CONSTRUCTION AGREEMENT provides the obligation of "CEMEX" to finance the execution of the construction works and the obligation of the BOARD to execute and issue certain promissory notes, hereinafter referred to as the MEXICO STATE NOTES, for each estimate of work to be developed, with even dates as of the approval of such estimate and one single repayment of principal on the expiration date, which were scheduled to mature eight months as of execution thereof. The agreement also requires for an advance payment to be tendered equal to twenty percent of the value of the agreement plus relevant Value Added Tax.

The construction agreements referred to in the roman numerals XVI and XVII of the preamble, shall be collectively referred to as the CONTRACTS, a copy of which are attached to the appendix of this instrument under the letters "N one" and "N two".

RECITALS

I.- **"BANOBRAS"** hereby declares that:

a) Is a *Sociedad Nacional de Credito* (national lending institution) duly organized pursuant to the laws of the United States of Mexico and that it operates consistent with the provisions of its own Internal Governing Law and other applicable legal provisions.

b) Its Internal Governing Law allows it to finance or refinance public or private investment projects in infrastructure and public services, and to support institutional strength of governments at the federal, state or municipal levels, with the purpose of contributing to the sustainable development of the country.

c) Its representative has the required authority to enter into this agreement on behalf of "BANOBRAS" and bind the same under the terms hereof, and that such authority has not been revoked as of the date hereof.

d) By means of that certain Resolution number nineteen slash two thousand and nine, dated as of March twenty-seven of two thousand and nine, the Board of Directors of Banobras approved the granting of a revolving credit line to "CEMEX", up to the amount of $5,000,000,000.00 (FIVE THOUSAND MILLION PESOS 00/100, MEXICAN CURRENCY), pursuant to the terms and conditions hereinafter set forth.

e) By means of those certain Resolutions numbers twenty slash two thousand and nine, dated as of March twenty-seven of two thousand and nine, and sixty-three slash zero nine, the Board of Directors and the Internal Lending Committee of Banobras, respectively, approved the granting of a simple loan to the trustee of that certain administration and payment source trust, to be formed for the purposes hereof by "CEMEX" as the beneficiary, hereinafter referred to as the SIMPLE LOAN, and such trust agreement to be entered by "BANOBRAS" with the CEMEX TRUST shortly, and which shall have a TRANCHE "A" section, to be allocated for working capital of CEMEX.

II.- **"CEMEX"** hereby declares that:

a) Is a company duly organized and existing pursuant to the laws of Mexico, [originally] as "COMPAÑIA CONCRETOS CULIACAN", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, as per public instrument number fifteen thousand and fifty, dated as of July five of one thousand nine hundred and sixty-five, granted by and before attorney Jorge Sotelo Regil, notary public number one hundred and eight in and for the Federal District, and filed with the Public Registry of Property and Commerce of Monterrey, State of Nuevo Leon, as of February twenty-two of nineteen ninety-one, under log entry number four hundred and sixty-eight, page one hundred and forty-one, Volume three hundred and forty-eight, Book three, Second Auxiliary of Instruments of Mercantile Companies, Commerce Section.

b) The instrument containing the articles of incorporation identified in the preceding paragraph has been amended on various occasions, and one of the most noteworthy being the amendment contained in the public instrument number sixty-seven thousand five hundred and six, dated as of December thirteen of nineteen ninety-nine, granted by and before attorney Juan Manuel Garza Garcia, notary public number sixty-seven in and for the city of San Pedro Garza Garcia, State of Nuevo Leon; referring to the merger of *"Agregados y Triturados Monterrey", Sociedad Anonima de Capital Variable, "Arena del Oriente", Sociedad Anonima de Capital Variable, "Concreto Prmezclado Nacional", Sociedad Anonima de Capital Variable, "Concreto y Precolados", Sociedad Anonima de Capital Variable* and *"Pavimentos Mexicanos de Concreto", Sociedad Anonima de Capital Variable* (as merged companies), into and with *"Concretos de Alta Calidad y Agregados", Sociedad Anonima de Capital Variable* (as merging company); and also the entire amendment to the by-laws and the corporate name [of the corporate entity ensuing from said merger], among other matters, to *"Cemex Concretos", Sociedad Anonima de Capital Variable*. The first charter of such public instrument was filed with the Public Registry of Property and Commerce of Monterrey, State of Nuevo Leon, as of December fifteen of nineteen ninety-nine, under log entry number nine thousand and eighty-seven, Volume two hundred and nine dash one hundred and seventy-six, Book four, Third Auxiliary of Miscellaneous Matters and Agreements.

c) Furthermore, as per public instrument number five thousand eight hundred and ninety-four, dated as of December seventeen of two thousand and eight, granted by and before attorney Jose Luis Farias Montemayor, notary public number one hundred and twenty in and for the First District of Monterrey, State of Nuevo Leon; the by-laws of "CEMEX" were up-dated, and among other matters, [the up-dated by laws of] "CEMEX" allowed it to grant or take money in loan, with or without security interest.

d) The agents of "CEMEX" hereof, have the required authority to execute this public instrument on behalf of "CEMEX" and to bind their constituent under the terms of this instrument, and such authority has not been revoked as of the date hereof.

e) The execution of this instrument and compliance of the obligations hereof, do not and will not result in any violation to any law, regulation, decree, ordinance or other legal provisions issued by any power or authority, to the extent applicable to "CEMEX".

f) The execution of this instrument and compliance of the obligations hereof, do not and will not result in any breach of any contract, agreement, instrument or any other contractual obligation or of any other nature, to which "CEMEX" is a party or pursuant to which "CEMEX" is bound.

g) There are no pending actions, trials, proceedings or investigations, or the knowledge of "CEMEX", threatening "CEMEX", by or before any court or governmental authority in respect of, or relating to, "CEMEX" or any of its property which could impair the validity of this instrument or the obligations hereof.

h) There are no unperformed judgments or pending orders, decrees or labor awards rendered against "CEMEX" or against any of its property which could impair the validity of this instrument or the obligations hereof.

i) It expects to enter into future public work agreements with other agencies and/or entities of the public sector and with private companies, the activity of which shall be connected to the generation of infrastructure, which results in the execution of construction ensuing from a concession [title], permit or services agreements, the collections interest of which shall be contributed into the trust referred to in roman numeral ONE of the third clause of the revolving credit line agreement set forth below, hereinafter the FUTURE CONTRACTS, which agreements may or may not require for tendering of advanced payments.

j) The proceeds that will be used to comply with its obligations hereunder ensue and will be from legal sources.

III.- The **"MORTGAGOR"** hereby declares that:

a) It is a *sociedad anonima de capital variable* (variable capital corporation), duly organized and existing pursuant to the laws of the United States of Mexico.

b) It has obtained all required authorizations and permits (corporate and otherwise) to approve the execution of this instrument and the transactions contemplated herein do not breach its current by-laws.

c) The agents of MORTGAGOR herein have the required authority to execute this instrument on behalf of the "MORTGAGOR" and to bind their constituent under the terms of this instrument, and such authority has not been revoked as of the date hereof.

d) The execution of this instrument and compliance of the obligations hereof, do not and will not result in any violation to any law, regulation, decree, ordinance or other legal provisions issued by any power or authority, to the extent applicable to the "MORTGAGOR".

e) The execution of this instrument and compliance of the obligations hereof, do not and will not result in any breach of any contract, agreement, instrument or any other contractual obligation or of any other nature, to which the "MORTGAGOR" is a party or pursuant to which the "MORTGAGOR" is bound.

f) There are no pending actions, trials, proceedings or investigations, or the knowledge of the "MORTGAGOR", threatening the "MORTGAGOR", by or before any court or governmental authority in respect of, or relating to, the "MORTGAGOR" or any of its property which could impair the validity of this instrument or the obligations hereof.

g) There are no unperformed judgments or pending orders, decrees or labor awards rendered against the "MORTGAGOR" or against any of its property which could impair the validity of this instrument or the obligations hereof.

h) It desires to enter into this agreement in order to collateralize the obligations of its subsidiary, "CEMEX", hereunder, for the benefit of "BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO, including any future obligations existing in favor of "BANOBRAS" and ensuing from the credit transactions with the lending institution that will act as the trustee of that certain administration and payment source trust to be formed for such purposes, and that it agrees to enter into the SIMPLE LOAN with "BANOBRAS"; by creating an industrial mortgage and civil mortgage [as collateral] upon all of the material elements, real and personal property engaged in the exploitation of the El Yaqui Plant, considered as a unit (hereinafter, including the real property, referred to as the "Assets").

i) It is the only and legal owner and/or holder of the Assets described in the above roman numbers ONE, FIVE, EIGHT and ELEVEN of the preamble of this instrument.

j) The "MORTGAGOR" is up to date in the payment of real property taxes, water, electric power and telephone utility services, and of other applicable taxes, duties and utility services in connection with the Assets. Upon the occurrence [or receipt of] any forewarnings, requirements and/or any attachments in connection with such obligations, the "MORTGAGOR" shall provide written notice thereof to "BANOBRAS", within five days following the date the "MORTGATOR" became aware of such event.

k) It is willing to create and grant and industrial and civil mortgage upon the Assets and the El Yaqui Plant, considered as a whole, inclusive of the Real Property described in the various sections of the preamble of this instrument, with the limitations and up to the amount set forth hereunder, collectively referred to as the COLLATERAL, consistent with the terms set forth in the chapters II) and III) of this instrument.

l) The Assets are free and clear of any and all liens (whether statutory or otherwise), charge, domain limitation, preemptive right or claim by taxes or any other duties; as substantiated with the no lien certificates that have been described in the various sections of the preamble of this instrument.

NOW, THEREFORE, In view of the above, the parties hereto agree to the following:

FIRST CHAPTER

REVOLVING LOAN FACILITY AGREEMENT

CLAUSES

FIRST. MAKING OF THE REVOLVING LOAN. "BANOBRAS" hereby advances to "CEMEX" a revolving loan, and makes available to "CEMEX" an amount of up to $5,000,000,000.00 (FIVE THOUSAND MILLION PESOS 00/100, MEXICAN CURRENCY), -and hereinafter referred to as the LOAN-.

[The LOAN] does not include the funding expenses set forth in the following sixth clause, nor did the interest set forth hereunder.

The LOAN shall be divided into two tranches, pursuant to the following:

TRANCHE "A": Up to the balance resulting between the maximum amount of $5,000,000,000.00 (FIVE THOUSAND MILLION PESOS 00/100, MEXICAN CURRENCY), hereinafter referred to as the TRANCHE "A", and the portion resulting from the outstanding balance of the TRANCHE "B", as defined hereunder; and

TRANCHE "B": Up to the amount of the balance resulting between the maximum amount of $5,000,000,000.00 (FIVE THOUSAND MILLION PESOS 00/100, MEXICAN CURRENCY), hereinafter referred to as the TRANCHE "B", and the portion resulting from the outstanding balance of the TRANCHE "A".

The available amount of the TRANCHE "A" LOAN shall be subject to: i) that the [fair market] value of the COLLATERAL, maintains at all times a ratio of one point twenty-five to one, in connection to the outstanding balance of the TRANCHE "A" LOAN and the outstanding balance of the TRANCHE "A" of the SIMPLE LOAN assigned to working capital, including the amount of all of the withdrawals to be made [hereunder]; ii) that the payment source contributed into the [payment] trust referred to in the third clause below, maintains a ratio of two to one in respect of the unpaid balance of TRANCHE "A" LOAN, including the amount of all of the withdrawals to be made hereunder.

SECOND. USE OF PROCEEDS. "CEMEX" hereby agrees to use the funds of the LOAN, precisely and exclusively for the following matters:

TRANCHE "A", to pay:

I. Working capital and for commencement and/or continuation of execution of the CONTRACTS and the FUTURE CONTRACTS.

II. The payment of commitment fees, financial engineering fees and the withdrawal referred to in the sixth clause of this agreement, and the relevant VAT accruing thereon.

TRANCHE "B", to pay:

I. Refinancing of up to an EIGHTY PERCENT of the construction work which is concluded but unpaid ensuing from the GDF CERTIFICATES, and for payment of fees and principal and interest in connection with the TRANCHE "A" LOAN.

To refinance up to an EIGHTY PERCENT of the construction work which is concluded but unpaid ensuing from construction work estimates and other payment documents of FUTURE CONTRACTS, to the satisfaction of BANOBRAS, which may qualify as a payment commitment by the various governmental agencies and/or private entities, hereinafter referred to as the PAYMENT DOCUMENTS.

II. If funds from the TRANCHE "B" LOAN should be sued to refinance the PAYMENT DOCUMENTS ensuing from FUTURE CONTRACTS, for which funds were granted from TRANCHE "A" LOAN, then the fund from the TRANCHE "B" LOAN shall be used to pay principal and interest accruing on the TRANCHE "A" LOAN, pursuant to the repayment schedule referred to in the eighth clause hereunder.

THIRD. CONDITIONS PRECEDENT. In order for "CEMEX" to make withdrawals on the account of the LOAN, "CEMEX" shall have previously complied with the following conditions precedent to the satisfaction of "BANOBRAS":

As to the first withdrawal:

I. An irrevocable administration and payment source trust shall have been formed, hereinafter referred to as the TRUST, whereby "CEMEX" shall contribute one hundred percent of its right and interest to all collection ensuing from the CONTRACTS, which are not committed for and which remain unused as of execution hereof and/or contribution thereof to the corpus TRUST; and, to the extent applicable, one hundred percent of its right and interest to all collection ensuing from the FUTURE CONTRACTS which are not committed for and which remain unused as of contribution thereof to the corpus TRUST, in respect of construction work completed but unpaid, and in respect of construction work to be completed.

The TRUST agreement shall provide that the corpus and purposes thereof shall consist, among others, of the following:

A. The contribution thereof of all right and withdrawal interests [on the account] of the LOAN.

B. To receive the payment of all the work estimates and/or proceeds resulting from the discount of the GDF CERTIFICATES and/or the PAYMENT DOCUMENTS, and that the trustee shall provide notice thereof to BANOBRAS, as to the amount of the same, that will allow it to determine the amount of interest payable and the repayment of the LOAN.

C. [That the trustee shall] provide a written monthly statement to "CEMEX" and to "BANOBRAS", that will reflect, in addition to any account activity, the following matters:

- The total amount of each and all of the GDF CERTIFICATES and/or the PAYMENTS DOCUMENTS contributed to the TRUST corpus.
- The construction work agreement to which the amount of the relevant GDF CERTIFICATES and/or PAYMENT DOCUMENTS is associated to.

D. That upon the request of "BANOBRAS", [the trustee shall] directly require those governmental agencies and/or private entities which may have authorized the assignment of collection rights from the CONTRACTS and from the FUTURE CONTRACTS into the corpus of the TRUST, reports relating to physical and financial progress of the construction work which may comprise the payment source of the LOAN, in the event no deposits deriving from the payment of the GDF CERTIFICATES and/or the PAYMENT DOCUMENTS shall have been received in a time period of three months.

E. [That the trustee shall] maintain separate accounts of record as to the TRANCHE "A" and the TRANCHE "B" LOAN.

II. The following documents shall have been supplied to "BANOBRAS":

A. Copies of the official letters signed by the authorized agents of the GDF and the BOARD, as applicable, authorizing "CEMEX" to contribute into the TRUST one hundred percent of "CEMEX" right and interest to the collection rights ensuing from the CONTRACTS, not previously committed for and unused as of the date of contribution thereof into the TRUST, and declaring their consent to deposit the amount of the same in the account the TRUST may have designated to that end to "CEMEX".

B. Copy of the official letter signed by the authorized agent of "CEMEX", notifying GDF and the BOARD as to the contribution of the collections rights from the CONTRACTS into the TRUST.

III. Evidence shall have been delivered, as to the filing of the first charter of this instrument with the relevant office of the Public Registry of Property and Commerce.

IV. A recent report from the credit bureau relating to "CEMEX" and its shareholders, shall have been delivered [to "BANOBRAS"], and that it does not imply the creation of further preventive reserves.

V. A copy of an insurance policy relating to insurable assets comprising the COLLATERAL shall have been delivered to "BANOBRAS", including evidence of payment thereof. Such insurance policy shall appoint "BANOBRAS" as the preferential beneficiary or, as applicable, an endorsement shall be issued in favor of "BANOBRAS" as the preferential beneficiary.

VI. A written report as to the financial and construction work progress shall have been delivered to "BANOBRAS", setting forth the portion of construction work completed and paid for, portion of construction work but unpaid, and the work to be completed.

These conditions shall have been completed or satisfied [by "CEMEX"], no later than sixty calendar days following execution hereof. If any of the above conditions should remain outstanding upon the expiration of such period, "BANOBRAS" may extend such period for another sixty calendar day term, provided that "BANOBRAS" has received a written request from "CEMEX" prior to the expiration of such term, and provided further that "BANOBRAS" shall have the right to cancel such extension at any time.

As to subsequent withdrawals and for each [subsequent] withdrawal period:

I. A recent report from the credit bureau relating to "CEMEX" and its shareholders, shall have been delivered [to "BANOBRAS"], and that it does not imply the creation of further preventive reserves.

II. A written report as to the financial and construction work progress shall have been delivered to "BANOBRAS", setting forth the portion of construction work completed and paid for, portion of construction work but unpaid, and the work to be completed.

FOURTH. WITHDRAWALS. Upon satisfaction or completion of the conditions precedent referred to in the above third clause, "CEMEX", [acting] trough the TRUST, may carry out multiple withdrawals of the LOAN, subject to the following:

Due to the fact that the right and interest of CEMEX to make withdrawals of the LOAN shall be contributed into the TRUST, "CEMEX" hereby irrevocably instructs "BANOBRAS", prior request made to that end by the trustee, to pay directly to the TRUST the relevant withdrawal amounts.

The determination of the amount of the LOAN to be withdrawn shall me made by "BANOBRAS", pursuant to: i) its internal policies relating to the determination of the maximum amount to be withdrawn in each withdrawal period; and ii) pursuant to the last paragraph of the first clause above. The amount of the LOAN to be withdrawn shall be notified by "BANOBRAS" to the trustee of the TRUST, with copy served to "CEMEX".

For each withdrawal the trustee of the TRUST desires to make on the account of the LOAN, [the trustee] shall provide the relevant request to "BANOBRAS" prior to the date it wishes to dispose the LOAN, and such request shall contain the amount to be withdrawn, as determined by "BANOBRAS" consistent with the terms of the preceding paragraph, the name of the banking institution, the account number to which "BANOBRAS" shall deposit the funds so requested, the branch number and location, and the Standardized Banking Code (CLABE), as applicable. The request shall have been previously approved by the agent or agents of the trustee of the TRUST, provided that such agents shall have properly substantiated their authority. The foregoing shall be a condition for "BANOBRAS" to effect the relevant disbursement. Therefore, "CEMEX" expressly agrees and acknowledges that withdrawals of the LOAN shall have been deemed to have made for the amounts "BANOBRAS" funds to the trustee and into the TRUST, and covenants that the provisions of this clause shall not be contested in the future.

"BANOBRAS" shall be released of any and all liability due to the failure of the trustee to exercise its withdrawal rights on the account of the LOAN.

For the purposes of the foregoing clause, the parties hereto agree to adhere to the following provisions:

Provisions applicable to the TRANCHE "A" [LOAN]:

I. First withdrawal period. "CEMEX", acting trough the TRUSTEE, shall be entitled to make the first withdrawal on the account of the LOAN, in connection with the TRANCHE "A", in a period not to exceed thirty calendar days, from and after compliance or satisfaction of the conditions precedent.

If "CEMEX", acting trough the TRUSTEE, should fail to make the first withdrawal of the TRANCHE "A" within the above referred time period, "BANOBRAS" may extend the same, provided that, "BANOBRAS" receives a written request to that end from "CEMEX", and ["BANOBRAS"] approves the same with due anticipation prior to the expiration of the relevant period. Notwithstanding the foregoing, "BANOBRAS" hereby reserves the right to cancel any extension so approved, at any time, by means of written notice thereof to "CEMEX".

The amount to be withdrawn from the TRANCHE "A", as determined by "BANOBRAS" consistent with the provisions or the third paragraph of this clause, shall be referred to as the TRANCHE "A" AVAILABLE AMOUNT.

II. Subsequent withdrawal periods. "CEMEX", acting trough the TRUSTEE, shall be entitled to make further withdrawals on the account of the LOAN, pursuant to the following terms:

The parties hereto agree that the period to make withdrawals on the account of the TRANCHE "A" LOAN shall expire upon exhausting the total amount of the LOAN, or else, upon sixty calendar days after the first withdrawal was made, whichever is first.

"BANOBRAS" shall then open a new withdrawal period, each one of no more than sixty calendar days, provided that the TRANCHE "A" AVAILABLE AMOUNT has not been exhausted in the immediately prior withdrawal period. Withdrawals for new periods may be made for up to the balance between the TRANCHE "A" AVAILABLE AMOUNT and the amount disposed as of the new withdrawal date, which implies, to the extent necessary, that "CEMEX" shall be required to increase the payment source pursuant to the standards set forth in this agreement, by means of contribution of collection rights of FUTURE CONTRACTS into the TRUST, and thus maintaining the ratio of two to one of the payment source, considered individually per AGREEMENT or FUTURE CONTRACTS. The foregoing is not and shall not be deemed as a revolving loan and thus, it is not subject to the revolving criteria provided for in the fifth clause below.

The last withdrawal period shall take place no later than six months prior to the expiration of the LOAN term and provided that the execution periods of FUTURE CONTRACTS which are to be used as payment source at that time, do not exceed the maximum period of the LOAN. If the relevant construction time periods should exceed the term of the LOAN, the revolving amount shall be adjusted pursuant to the payments expected to receive during the period.

During the term of the LOAN, "CEMEX" shall be entitled to make new withdrawals on the account of the TRANCHE "A" LOAN by resorting to the revolving mechanism, according to the criteria set forth in the fifth clause below.

During each withdrawal period, interest accrued and outstanding may be capitalized, according to the terms set forth in the seventh clause below.

The amount of withdrawals for each withdrawal period shall be recorded in an independent account and thus, until the time the relevant withdrawal period is concluded, the amount so withdrawn shall not be computed in the consolidated balance of this Tranche, for the purposes of computing interest and repayment [of the TRANCHE "A" LOAN].

The balance of the independent account generated for each withdrawal period, including interest capitalized, shall be consolidated into the unpaid balance of this Tranche, on the day that the relevant withdrawal period should expire, thus creating a new unpaid balance of the TRANCHE "A" [LOAN].

The consolidated balance of this TRANCHE "A" and the amounts of the withdrawals generated throughout the relevant withdrawal period shall accrue interest according to the terms set forth in the seventh clause below.

Provisions applicable to the TRANCHE "B" [LOAN]:

I. Subsequent withdrawal periods. "CEMEX", acting trough the TRUSTEE, shall be entitled to make further withdrawals on the account of the TRANCHE "B" [LOAN], pursuant to the following terms:

Until the time period which is fifty-four months computed as of the first withdrawal of the LOAN, and with such frequency as the GDF (in respect to the GDF CERTIFICATES), and the governmental agencies or third private parties (in respect to the FUTURE CONTRACTS), should issue PAYMENTS DOCUMENTS.

The amount to be disbursed for each of the GDF CERTIFICATES, and/or the PAYMENT DOCUMENTS, shall be for up to eighty percent of the amount each should represent.

The last withdrawal period on the account of the TRANCHE "B" [LOAN], shall take place no later than six months prior to the expiration of the LOAN term and provided that the execution periods of FUTURE CONTRACTS which are to be used as payment source at that time, do not exceed the maximum period of the LOAN. If the relevant construction time periods should exceed the term of the LOAN, the revolving amount shall be adjusted pursuant to the payments expected to receive during the period.

FIFTH. REVOLVING [NATURE OF THE LOAN]. The LOAN extended under the terms of this agreement is granted on a revolving basis. Payment in full of the principal and the relevant interest for any withdrawal period made by "CEMEX", shall replenish the available amount of the LOAN, in such amount as determined by "BANOBRAS", consistent with the following criteria:

For the TRANCHE "A" [LOAN] and during the term of the LOAN, one or more revolving [withdrawals] may be exercised, provided, however, that not less than fifty percent of the outstanding balance of the LOAN in connection with the immediately prior withdrawal period has been repaid, and therefore, the amount of the new available withdrawal shall be determined based upon the sufficiency of the payment source, a situation to be notified by "BANOBRAS" to the TRUST, with copy served onto "CEMEX". To the extent necessary, the latter may be increased by means of contribution made by "CEMEX", of its right and interest to the collection rights into the TRUST, in connection with FUTURE CONTRACTS, in order to comply with the above referred ratio condition of two to one between the LOAN and the payment source, for which, as provided for in the third paragraph of the fourth clause above, the amount available of the LOAN shall be notified by "BANOBRAS" to the trustee of the TRUST, with copy served to "CEMEX".

The TRANCHE "B" [LOAN] shall be revolving under the terms of the provisions set forth in the first paragraph of this clause.

SIXTH. COMMISSION FEES. "CEMEX", acting trough the trustee of the TRUST, hereby agrees to pay to "BANOBRAS", a one-time payable commission fee, upon the occurrence of each withdrawal of the LOAN, and to be paid from proceeds of the LOAN, whether from the TRANCHE "A" [LOAN] or the TRANCHE "B" [LOAN], and [calculated] upon the amount of the relevant withdrawal, according with the following terms:

Commission fees on the TRANCHE "A" [LOAN].

I. An opening credit line fee equal to one per cent.

This commission fee shall apply to withdrawals on the account of TRANCHE "A" and on the account of the TRANCHE "B" [LOAN], taking the following into account: i) the commission shall become payable until the time the aggregate amount the same is lesser or equal to the maximum authorized amount of the LOAN, and ii) the commission shall become payable, provided that the making of such withdrawals does not trigger the revolving nature of such TRANCHE "A" [LOAN].

II. For financial engineering a commission fee equal to one percent.

This commission fee shall apply to withdrawals on the account of TRANCHE "A" and on the account of the TRANCHE "B" [LOAN], taking the following into account: i) the commission shall become payable until the time the aggregate amount the same is lesser or equal to the maximum authorized amount of the LOAN, and ii) the commission shall become payable, provided that the making of such withdrawals does not relate to the revolving portion of such TRANCHE "A" [LOAN].

III. A withdrawal fee equal to zero point twenty-five per cent.

This commission fee shall apply to additional withdrawals made in exercise of the revolving [nature] of the TRANCHE "A" of the LOAN referred to in the fifth clause above.

Commission fees on the TRANCHE "B" [LOAN].

I. An opening credit line fee equal to one per cent.

This commission fee shall apply to withdrawals on the account of TRANCHE "A" and on the account of the TRANCHE "B" [LOAN], taking the following into account: i) the commission shall become payable until the

time the aggregate amount the same is lesser or equal to the maximum authorized amount of the LOAN, and ii) the commission shall become payable, provided that the making of such withdrawals does not relate to the revolving portion of such TRANCHE "A" [LOAN].

II. A withdrawal fee equal to zero point twenty-five per cent.

This commission fee shall apply to additional withdrawals made in exercise of the revolving [nature] of the TRANCHE "B" of the LOAN referred to in the fifth clause above.

All commission fees referred to in this clause shall accrue VAT.

"CEMEX" hereby irrevocably instructs "BANOBRAS" to pay the above referred commission fees from the proceeds of the LOAN, on the dates such commissions should become payable, and to this end, "BANOBRAS" is hereby authorized to make the relevant accounting entries.

To that end, "CEMEX" expressly agrees and acknowledges that all withdrawals made on the account of the LOAN as per the terms noted above, shall be deemed made for the relevant amounts and that in virtue of the foregoing, the provisions of this clause shall not be contested in the future.

SEVENTH. INTEREST. "CEMEX" shall pay "BANOBRAS", on a monthly basis, consistent with the procedure laid down in the following clause, as of the date of the first withdrawal of the LOAN is made, and until it is repaid in full, interest at a rate resulting from adding TIIE quoted at 28 (twenty-eight) days, the following margins:

To the TRANCHE "A": four percentage points; and

To the TRANCHE "B": three percentage points.

For the purposes of this clause, the following definitions shall apply:

Interest Period. [Shall mean] the period to determine interest accruing upon the outstanding balance of the LOAN, which is to commence the day in which the first withdrawal of the LOAN is made, and which shall conclude the same day of the next month. Subsequent interest periods shall commence and conclude pursuant to the same procedure, in other words, they shall commence the same day on which the immediately prior period ends, and shall conclude the same day of the next month.

Notwithstanding the above, there shall be irregular interest periods in the calculation of interest whenever: i) a withdrawal of the LOAN is made on a date which is not an interest payment date, [in which case] accrued interest shall be calculated according to the actual number of days elapsed between the date in which the relevant withdrawal is made and the date in which the next interest payment period expires; ii) governmental agencies and/or private entities deposit funds into the TRUST on a date which is not an interest payment date, [in which case] interest accrued shall be calculated according to the actual number of days elapsed between the date in which the relevant withdrawal is made and the date in which "BANOBRAS" should provide written notice to the trustee of the TRUST, as to the amount payable on the account of interest and principal and then payment by the trustee of the TRUST is made accordingly.

Subsequent withdrawals on the account of each of the Tranches of the LOAN shall be incorporated into the outstanding balance of each Tranche, and thus, the INTEREST PERIOD on the account of such withdrawals shall be adjusted at the closing of the withdrawal period of the first withdrawal of each Tranche.

Except as provided above, payment of interests regarding each period shall be made precisely the day in which the relevant period should conclude.

Whenever an interest period should conclude on a day which is not a banking business, payment shall be extended to the immediately following business banking day, and the relevant extension shall be considered to compute the relevant interest.

TIIE. As to a relevant interest period, [shall mean] the Interbanking Balance Interest Rate *(Tasa de Interes Interbancaria de Equilibrio)* quoted at 28 (twenty-eight) days, as announced by the *Banco de Mexico* in the Federal Official Gazette, as is in force one business day prior to the commencement of each INTEREST PERIOD. The TIIE shall be reviewed on a monthly basis.

If the above rate should be modified or otherwise ceases to exist, the relevant calculation shall be made according with the rate or rates that should replace it, and in the absence of any rate, according with such rate as determined by the Ministry of Finance *(Secretaria de Hacienda y Credito Publico)* from time to time.

BUSINESS BANKING DAY. [Shall mean] the days on which Mexican banking institutions are not authorized to close operations to the general public, and cease business pursuant to the resolutions issued by the National Banking and Securities Commission *(Comision Nacional Bancaria de Valores)*.

Interest rate shall be expressed annually and shall be calculated dividing the applicable interest rate between three hundred and sixty days, and the result obtained multiplied by the actual number of days elapsed during the period in which interest accrue with the applicable interest rate, and the result thereof shall be applied to the outstanding balance of the LOAN.

Upon the default of “CEMEX” to repay the LOAN as it becomes due consistent with the terms of the following clause, “CEMEX” shall pay “BANOBRAS” late interest at a rate equal to the regular interest rate referred to in this clause as it may be in force on the date payment was due, times one point five. Late interest shall be computed over the outstanding balance of the LOAN, and determined on a quarterly basis or fraction thereof, as of the date the same became due until repayment in full.

All payments of interest to be made by “CEMEX” to the trustee of the TRUST, for the benefit of “BANOBRAS”, shall be made on their relevant due dates as provided for in the tenth clause below, without the need of prior demand from “BANOBRAS”.

The parties hereto agree that during the withdrawal period of the TRANCHE “A” of the LOAN, accrued and outstanding interest may be capitalized according to the terms of article three hundred and sixty three of the Commerce Code.

The determination of interest shall be notified one business day prior to the date they become due.

“CEMEX” agrees to contribute funds into the TRUST as it may be necessary to pay interest on the specified dates.

EIGHTH.- REPAYMENT. "CEMEX", acting to the trustee of the TRUST, agrees to repay the outstanding balance of the LOAN to "BANOBRAS", together with interest referred to in the preceding clause, according to the following procedure:

Repayment of the TRANCHE "A" LOAN.

Upon expiration of the withdrawal period on the account of the TRANCHE "A" LOAN, repayments on the account of the LOAN shall be made on each occasion the trustee of the TRUST should receive payments on the account of the GDF CERTIFICATES and/or the PAYMENT DOCUMENTS, excluding VAT, and deducting the portion of the down payment tendered and thus, repayment of the LOAN, as to the TRANCHE "A", shall be completed with payment of the last GDF CERTIFICATE and/or PAYMENT DOCUMENT.

Notwithstanding the above, "CEMEX" hereby agrees that if payment has not been received in full on the account of the GDF CERTIFICATES and/or the PAYMENT DOCUMENTS within a period of FIVE MONTHS following completion of the relevant construction works contemplated in the CONTRACTS and the FUTURE CONTRACTS, "CEMEX" agrees to repay the outstanding balance of the LOAN with independent funds to be contributed to the TRUST corpus, unless:

i) There should be a document in writing substantiating the extension of the term to complete the construction works subject matter of the CONTRACTS and/or the FUTURE CONTRACTS, as issued by the relevant contracting governmental agency or private corporate entity; or

ii) There should be additional payment sources ensuing from FUTURE CONTRACTS, the collection interest of which have been previously contributed into the TRUST corpus and are enough to repay "BANOBRAS" the amount of the LOAN, or

iii) The CONTRACTS and/or FUTURE CONTRACTS should provide for payment schedules which exceed the construction schedule of the work.

A quotient shall be determined each time a withdrawal period has expired (a repayment quotient is equal to the result of dividing the consolidated balance of the TRANCHE "A" LOAN between the amount represented by the construction work pending completion the payment of which is outstanding from the contracting governmental agencies or private corporate entities, under the terms of the CONTRACTS and/or FUTURE CONTRACTS, deducting any down payments and excluding the relevant VAT), to be applied to the balance of the TRANCHE "A" LOAN, according to the following formula:

FAt= St / OPEt (Fat equals St divided into OPEt)

Where:

Fat= Repayment quotient during the period "t".

St= Consolidated balance of the TRANCHE "A" LOAN at the end of each withdrawal period during the period "t".

OPEt= Amount of the construction work pending completion and amount of the work pending payment from the contracting governmental agencies or private corporate entities, under the terms of the CONTRACTS and/or FUTURE CONTRACTS, deducting any down payments, and excluding VAT, during the period "t".

"CEMEX" acknowledges that repayment of the LOAN is to be made through the trustee of the TRUST, and that repayment is not to be suspended or interrupted, and that repayments of principal to be made through such trustee shall be made on their relevant due dates, according to the terms of this instrument.

To determine the amount of each installment of repayment "CEMEX" is required to make to "BANOBRAS", prior written notice made by the trustee of the TRUST to "BANOBRAS" as to the amounts of each of the GDF CERTIFICATES and/or the PAYMENT DOCUMENTS received, the quotient (Fat) referred to in the preceding paragraph, shall be multiplied by each of the GDF CERTIFICATES and/or the PAYMENT DOCUMENTS which may have been paid, consistent with the following formula:

Amt= (Fat X MEt)

Where:

Amt= Amount of the repayment installment during the period “t”.

Fat= Repayment quotient during the period “t”.

MEt= Amount of GDF CERTIFICATES and/or the PAYMENT DOCUMENTS paid, exclusive of VAT, during the period “t” deducting any relevant down payments.

Upon making the calculation of the amount of the repayment installment, “BANOBRAS” shall provide written notice to the trustee of the TRUST, with copy served to “CEMEX”, the amount of each repayment installment.

“CEMEX”, acting through the trustee of the TRUST, shall tender the relevant repayment on the next business day following [receipt] of the notice referred in the immediately above paragraph.

If at any time during any withdrawal period the TRUST should receive funding on the account of payment of the GDF CERTIFICATES and/or the PAYMENT DOCUMENTS, then the amount of the repayment installment shall be applied to the balance of the consolidated account of the TRANCHE “A” only.

If the value of the collection interest on the account of the CONTRACTS and the FUTURE CONTRACTS should vary for any reason, then “BANOBRAS” may adjust the repayment quotient (FAt) accordingly.

“CEMEX” hereby agrees that upon the event of a rescission or early termination of the CONTRACTS and the FUTURE CONTRACTS, the settlement amount tendered by the relevant contracting governmental agency or private corporate entity, shall be allocated, to its fullest extent, to repay the outstanding balance of the LOAN on record as of such date.

Repayment of the TRANCHE “B” LOAN.

Installments of repayment shall be made on each occasion the trustee of the TRUST should receive payments ensuing from the GDF CERTIFICATES and/or the PAYMENT DOCUMENTS, and these proceeds shall be applied until the outstanding balance of the TRANCHE “B” LOAN has been repaid in full relating to each of said documents.

NINTH. SOURCE OF PAYMENT. The following shall be deemed the source of payment of the LOAN:

I. One hundred percent of [“CEMEX’s”] right and interest to the collection of the CONTRACTS, to the extent not committed and not withdrawn as of the date of execution hereof and/or their contribution thereof to the TRUST.

II. One hundred percent of [“CEMEX’s”] right and interest to the collection of the FUTURE CONTRACTS, to the extent not committed and not withdrawn as of their contribution thereof to the TRUST.

III. Other income of “CEMEX” to:

1. Repay interests on their due dates as per the terms of the seventh clause above, in the event the trustee of the TRUST has not received payment of the GDF CERTIFICATES and/or the PAYMENT DOCUMENTS, from the relevant contracting governmental agencies or private corporate entities.

2. Repay any amount of principal outstanding on the account of the LOAN, if payment has not been received the trustee of the TRUST on the account of the GDF CERTIFICATES and/or the PAYMENT DOCUMENTS within a period of FIVE MONTHS following completion of the relevant construction works contemplated in the CONTRACTS and the FUTURE CONTRACTS, except to the extent of an exception consistent with the terms of the eighth clause above.

3. In the event the relevant contracting governmental agencies or private corporate entities should pay funds on the account of the CONTRACTS and the FUTURE CONTRACTS, in a [bank] account other than the TRUST account, the parties hereto agree that "CEMEX" shall immediately contribute into the TRUST corpus such funds as it may be required to pay the items stated in the above numerals 1, 2 and 3 (*sic*) above, in the event there should be a deficiency in the TRUST corpus or whenever the relevant contracting governmental agencies or private corporate entities have made a payment in a [bank] account other than the TRUST account.

For collection rights and interests into the FUTURE AGREEMENTS to qualify as source of payment of the LOAN, "CEMEX" shall be required to previously comply, to the satisfaction of "BANOBRAS", the following conditions:

A) To contribute into the TRUST corpus one hundred percent of its right and interest to the collection rights of the FUTURE CONTRACTS, to the extent not committed and not withdrawn as of their contribution thereof to the TRUST, provided that ["CEMEX"] shall be required to deliver to "BANOBRAS" copies of the following:

1. Copies of the official letters signed by the authorized agents of the relevant contracting governmental agencies or private corporate entities, as applicable, authorizing "CEMEX" to contribute into the TRUST one hundred percent of "CEMEX" right and interest to the collection rights ensuing from the FUTURE CONTRACTS, not previously committed for and unused as of the date of contribution thereof into the TRUST, and declaring their consent to deposit the amount of the same in the account the TRUST may have designated to that end to "CEMEX".

2. Copy of the official letter signed by the authorized agent of "CEMEX", notifying the relevant contracting governmental agencies or private corporate entities, as applicable, as to the contribution of the collections rights from the FUTURE CONTRACTS into the TRUST.

Regardless of the above and consistent with the terms of article two thousand nine hundred and sixty-four of the Federal Civil Code and its mirror provision in the Civil Codes of the remainder States of the Republic; "CEMEX" agrees that it will honor its commitments hereunder with all of its assets.

TENTH. PLACE OF PAYMENT."CEMEX", acting through the trustee of the TRUST, agrees to tender payment of all of the obligations herein acquired with "BANOBRAS", before 14:00 (fourteen) hours, central time, on the dates payments are due, in any branch office of *Banco Nacional de Mexico, S.A., Grupo Financiero Banamex* (BANAMEX), with any payment means, to the checking account number 571549 (five, seven, one, five, four, nine), branch office number 870 (eight, seven, zero), location 001 (zero, zero, one), or by means of interbanking payment from any other bank, using the Standardized Banking Code (CLABE) number 002 180 0870 0571549 3 (zero, zero, two, one, eight, zero, zero, eight, seven, zero, zero, five, seven, one, five, four, nine, three), under the name of "BANOBRAS", S.N.C., recovery of receivables from the public and private sector.

"CEMEX" agrees to tender all payments required to be made herein on the account of the LOAN, through the trustee of the TRUST, before the above stated time, using the code number which identifies the LOAN. The code number which identifies the LOAN shall be supplied to "CEMEX" in the printed account statements referred to in the nineteenth clause below.

All payments tendered after the above referred time shall be deemed made the next business banking day and this extension shall be computed for the purposes of calculating interests.

"BANOBRAS" reserves the right to change the place and/or form of payment by means of 15 (fifteen) calendar day prior written notice to "CEMEX".

Payments received by "BANOBRAS" in any other place shall not be construed as a new agreement as to the payment place herein agreed. For the purposes of article 2220 (two thousand two hundred and twenty) of the Federal Civil Code, the foregoing provision shall be deemed an express reserve for all relevant purposes.

ELEVENTH. PRIORITY OF PAYMENTS. All payments tendered to "BANOBRAS" by the trustee of the TRUST, consistent with the purposes stated in the TRUST, and from proceeds of the TRUST corpus, shall be applied to in the following fashion:

I. Collection expenses incurred by "BANOBRAS", including attorney fees.

II. Any outstanding commission fees.

III. Late interest fees accruing on the LOAN.

IV. Accrued and outstanding interests of the LOAN.

V. Principal which may be outstanding, starting from the oldest installment to the newest.

VI. Accrued interests from the relevant withdrawal period.

VII. Repayment of the LOAN of the relevant period.

VIII. Any balance thereof shall be tendered over to "CEMEX".

TWELFTH. PREPAYMENTS. "CEMEX" shall be entitled to make prepayments on the account of the LOAN, in part or in whole, without penalty or premium, at any time but subject to the following:

I. A two business day prior written notice shall have been furnished to "BANOBRAS".

II. "CEMEX" shall have paid "BANOBRAS" outstanding interests accruing up to the prepayment date.

THIRTEENTH. MISCELLANEOUS OBLIGATIONS. During the term of the LOAN, "CEMEX" agrees before "BANOBRAS" to the following:

I. To provide monthly written notice, as to the progress of construction work, with detail of the work completed and paid for, including work performed pending payment, and work pending completion, in connection with the CONTRACTS and the FUTURE CONTRACTS.

II. To maintain an insurance policy covering the property comprising the COLLATERAL. Such insurance policy shall name "BANOBRAS" as the preferred beneficiary or, to the extent applicable, an endorsement naming "BANOBRAS" as the preferred beneficiary shall be obtained.

III. Provide its financial statements on a yearly basis, as audited by an independent auditor, within the first one hundred and eighty days as of the following fiscal year. Furthermore, it shall supply its records and/or internal financial statements whenever "BANOBRAS" should required the same in writing, no later than sixty days following the closing of the relevant fiscal year.

IV. It shall not engage in any indebtedness, including any obligations for borrowed money, bonds, loans, deferred payment obligations, services or property, financial leases and third party obligations where "CEMEX" should be a guarantor, or generally, enter into financial transactions which may deviate from its ordinary course of business and which may have the effect of defaulting on its payment obligations hereunder.

V. Advise "BANOBRAS" as to the existence of any suit or proceeding asserted against "CEMEX", and of any situation which may compromise the execution of the CONTRACTS and of the FUTURE CONTRACTS, and having the ability of impairing its payment condition.

VI. Provide immediate written notice to "BANOBRAS" upon gaining knowledge of the occurrence or the existence of any situation which might lead to an event of default under any of the CONTRACTS and of the FUTURE CONTRACTS.

Any of the above referred obligations which fail to state a time period for performance, shall be notified or substantiated to "BANOBRAS" in writing, no later than fifteen business days after occurrence of the same.

FOURTEENTH. EARLY TERMINATION. "BANOBRAS" shall be entitled to declare acceleration of any of the time periods specified herein and shall demand for immediate payment of any outstanding amounts on the account of principal, accrued interest and late interest and of any other financial expenses, upon the occurrence of any default or breach to the obligations herein of "CEMEX" and of "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, as MORTGAGOR, under the terms of the chapters II) and III) hereunder, including but not limited to occurrence of the following events:

i) If "CEMEX" should fail to tender timely payment of two or more installments of principal or interest.

ii) If the proceeds of the LOAN are used for a purpose different from the purposes required by the CONSTRUCTION CONTRACTS (*sic*) and the FUTURE CONSTRUCTION CONTRACTS (*sic*), and allocating funds for other purposes.

iii) If "CEMEX" fails to provide the information addressed in the preceding clause.

iv) If a proceeding seeking administrative termination of the CONSTRUCTION CONTRACTS (*sic*) and the FUTURE CONSTRUCTION CONTRACTS (*sic*), shall have been instituted.

v) If "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE should transfer or encumber any of the property comprising the COLLATERAL.

vi) If any other breach or default to the terms of this agreement should occur.

If breach or default ensues from force majeure then "BANOBRAS" shall provide written notice to "CEMEX" and to "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, of the early termination with detail of the grounds giving rise to such early termination, and these two parties shall then have a term of fifteen calendar days to make any statements they should deem appropriate in connection thereof and cure the unremedied obligation. If upon the expiration of such term the obligation has not been cured or otherwise, the parties have not reached an agreement with "BANOBRAS" to settle the same, then the early termination of the LOAN shall render effective the next business day and all amounts hereunder shall mature.

FIFTEENTH. RESTRICTION OF THE LOAN. "CEMEX" and "BANOBRAS" hereby agree that, consistent with the provisions of article two hundred and ninety-four of the General Law of Negotiable Documents and Lending Transactions, "BANOBRAS" hereby reserves the right to reduce the amount of the LOAN at any time, including the withdrawal periods available to "CEMEX" to dispose of the same, by means of ten calendar days prior written notice to "CEMEX".

SIXTEENTH. LABOR LIABILITY. "CEMEX" hereby acknowledges that in its capacity of employer, it shall be responsible for complying with all labor obligations and responsibilities with its employees, none of which has any labor relationship whatsoever with "BANOBRAS".

"CEMEX" hereby agrees to indemnify and maintain "BANOBRAS" free and harmless from and against any dispute, whether of individual or collective nature, arising during the term of the LOAN, and hereby assumes any such liability before "BANOBRAS" for any situation arising out of any such labor disputes.

SEVENTEENTH. INFORMATION FROM THE CREDIT BUREAU. In order to comply with the terms of the Fair Credit Reporting Act (*Ley para Regular las Sociedades de Informacion Crediticia*), "CEMEX" and its shareholders have supplied to "BANOBRAS", prior to the date hereof, a letter duly signed by the authorized agents of the same, authorizing "BANOBRAS" to do periodic checks with credit reporting agencies relating to their credit history, and authorizing "BANOBRAS" to supply credit information relating to "CEMEX" and its shareholder to such credit reporting agencies, in connection with the LOAN.

"CEMEX" acknowledges having read and understood the implications of the reports issued by the credit reporting agencies, as to the information contained in their data bases, and that failure to comply, in whole or in part, with its payment obligations shall be accounted for with the relevant warning codes in the credit reports which might adversely affect their credit rating. If there should be any controversy arising out of information obtained from the data base of any credit reporting agency, such controversy shall be settled by mediation held before the National Commission for Protection and Defense of Credit Consumers (*Comision Nacional de Proteccion y Defensa de los Usuarios de Servicios Financieros*).

EIGHTEENTH. MAXIMUM TERM OF THE LOAN. The term of the LOAN is for up to sixty months computed as of the date of the first withdrawal. Notwithstanding any termination hereof, the LOAN agreement contained herein shall render effective among the parties until each and all of the obligations hereunder have been complied with.

NINETEENTH. ACCOUNT STATEMENTS. "BANOBRAS" shall provide monthly account statements to "CEMEX", which statements shall contain a description of the withdrawals made, repayment installments,

interest accrued and outstanding balance, and "CEMEX" shall have a term of twenty days upon receipt thereof to make any observations it may have in connection thereto. In the absence of any such observations, the account statements shall be deemed as accepted by "CEMEX" in all of its terms according with the applicable law.

SECOND CHAPTER

GRANTING OF THE CIVIL MORTGAGE

TWENTIETH. CREATION OF THE CIVIL MORTGAGE. As security interest of (i) payment in full when due of principal and interests of the LOAN advanced by "BANOBRAS" to "CEMEX" under the terms of the loan agreement contained in the first chapter of the foregoing instrument, (ii) timely compliance by "CEMEX" of its obligations hereunder, and (iii) payment of all commission fees, costs and expenses associated with or incurred by "BANOBRAS" in the making of the loan, the creation of the mortgage contemplated herein and of any foreclosure efforts (hereinafter, the matters referred to in the preceding numerals shall be referred to as the " SECURED OBLIGATIONS"), the MORTGAGOR, in accordance with the terms of article two thousand nine hundred and twenty of the Federal Civil Code, and its mirror provisions of the Civil Code for the State of Sonora, does hereby create and grant a first priority civil mortgage (the "CIVIL MORTGAGE") upon the Assets, for the benefit of "BANOBRAS", which MORTGAGE includes and shall be extensive to the real property, the premises and constructions attached thereto, and other property, present or future, which should be included thereto by statute. The CIVIL MORTGAGE covers all of the surface and constructions of the real property, with the surface, metes and bounds noted in the preamble of this instrument, all of which is hereby deemed reproduced as if literally inserted hereto. The CIVIL MORTGAGE shall be made extensive to all natural fixtures and appurtenances of the real property, to all improvements made thereto by the MORTGAGOR, to all personal property permanently affixed to the real property which may not be removed without damage to the same, to all new buildings erected upon the real property by the MORTGAGOR and to new floors erected upon the referred real property, to all yields produced by the real property before the MORGAGEE should enforce any of the SECURED OBLIGATIONS, and generally, to all other property which as a matter of fact and as a matter of law should be incorporated thereto, with no reserve or limitation of any kind whatsoever, consistent with the terms of articles two thousand eight hundred and ninety-six and two thousand eight hundred and ninety-seven of the Federal Civil Code and the mirror provisions thereof of the Civil Code for the State of Sonora.

The mortgage contemplated herein shall secure past due interests, even if these should exceed of the term of three years, for all the time until the statute of limitations elapses, a situation which the Public Registries of Property are hereby required to take due note of.

Solely for filing purposes with the Public Registry of Property, following are the values required for releasing the lien:

a) With regards to the real property identified in roman numeral one of the preamble of this instrument, the amount of FOUR THOUSAND SIX HUNDRED AND FOUR MILLION PESOS, MEXICAN CURRENCY;

b) With regards to the real property identified in roman numeral five of the preamble of this instrument, the amount of SIX MILLION FIVE HUNDRED THOUSAND PESOS, MEXICAN CURRENCY;

c) With regards to the real property identified in roman numeral eight of the preamble of this instrument, the amount of ONE MILLION HUNDRED THOUSAND PESOS, MEXICAN CURRENCY;

d) With regards to the real property identified in roman numeral ten of the preamble of this instrument, the amount of THREE HUNDRED AND EIGHTY-EIGHT MILLION AND FIVE HUNDRED THOUSAND PESOS, MEXICAN CURRENCY.

THIRD CHAPTER

GRANTING OF THE INDUSTRIAL MORTGAGE

TWENTY-FIRST. CREATION OF THE INDUSTRIAL MORTGAGE. As security interest of the SECURED OBLIGATIONS referred to in the first paragraph of the twentieth clause above, the MORTGAGOR, in accordance with the terms of article sixty-seven of the Law of Baking Institutions, does hereby grant and create a first priority mortgage upon the industrial unit in operation, which includes and shall be extensive to all real property, machinery and equipment described in the document attached to the appendix of this instrument under the letters “M one” and “M two”, and any other assets now or hereinafter engaged to the operation of the El Yaqui Plant, considered as a whole, for the benefit of “BANOBRAS” as MORTGAGEE and secured party.

Both, MORTGAGOR and MORTGAGEE do hereby expressly agree that the following items shall be excluded from the industrial mortgage granted herein: cash available in the treasury from the ordinary course of the operation, inventory and receivables generated from the operations, all of which shall remain for the benefit of the MORTGAGEE. This mortgage shall be made extensive to all natural fixtures and appurtenances of the mortgaged real property, to all improvements made thereto by the MORTGAGOR, to all personal property permanently affixed to the mortgaged real property which may not be removed without damage to the same, to all new buildings erected upon the mortgaged real property by the MORTGAGOR and to new floors erected upon the referred mortgaged real property, to all yields produced by the mortgaged real property, expressly excluding any cash flows obtained in the ordinary course of business of the operation of the El Yaqui Plant, provided that these proceeds have been obtained before the MORGAGEE should enforce any of the SECURED OBLIGATIONS, and generally, to all other property which as a matter of fact and as a matter of law should be incorporated thereto, with no reserve or limitation of any kind whatsoever, consistent with the terms of articles two thousand eight hundred and ninety-six and two thousand eight hundred and ninety-seven of the Federal Civil Code and the mirror provisions thereof of the Civil Code for the State of Sonora.

The mortgage contemplated herein shall secure past due interests, even if these should exceed of the term of three years, for all the time until the statute of limitations elapses, a situation which the Public Registries of Property are hereby required to take due note of.

FOURTH CHAPTER

COMMON PROVISIONS APPLICABLE TO ALL OF THE PRIOR CHAPTERS

TWENTY-SECOND. DOMICILES. All notices, communications and correspondence among the parties in connection with this instrument shall be made in writing, and shall be deemed validly made if delivered personally or transmitted by facsimile duly confirmed and acknowledged receipt by facsimile or registered mail to the following domiciles:

If to BANOBRAS AND/OR THE MORTGAGEE:

Avenida Javier Barros Sierra number five hundred and fifteen, fourth floor,
Colonia Lomas de Santa Fe,
Delegacion Alvaro Obregon,
Zip code zero, one, two, one nine, Mexico City, Federal District.
Telephone: 5270 1501
Fax: 5270 1200
E-mail:

If to “CEMEX”:

Avenida Constitucion number four hundred and forty-four, Poniente,
Colonia Centro,
Zip code six, four, zero, zero, zero, Monterrey, Nuevo Leon.
Telephone: 81 8328 3000
Fax: 81 8328 3549
E-mail: eduardo.salaburu@cemex.com

If to “CEMEX MEXICO” and/or the MORTGAGOR:

Avenida Constitucion number four hundred and forty-four, Poniente,
Colonia Centro,
Zip code six, four, zero, zero, zero, Monterrey, Nuevo Leon.
Telephone: 81 8328 3000
Fax: 81 8328 3549
E-mail: eduardo.salaburu@cemex.com

Any change of domicile shall be notified by means of 30 (thirty) days prior written notice to the other party. Absent any notice, all notices and communications shall be valid if made to the domiciles stated herein.

TWENTY-THIRD. HEADINGS. Headings contained in the various clauses of this instrument have been incorporated for convenience of reference only and thus, shall not be used to define or otherwise constraint the contents of such clauses. For interpretation purposes, each clause shall be interpreted consistent with the contents thereof and not by reference to its heading.

TWENTY-FOURTH. ASSIGNMENT. By means of written notice to “CEMEX” and to the MORTGAGOR immediately after occurrence, “BANOBRAS” may, at any point in time, assign or transfer, in whole or part, its right and interest into this instrument to any other Mexican banking institution. [Upon the assignment] the assignee shall be deemed as lender and mortgagee for the purposes of the contracts formalized herein, in a percentage equal to the interest assigned to such banking institution as per the terms of the relevant assignment agreement.

Neither “CEMEX” nor the MORTGAGOR shall be entitled to assign any of their right and interest into, or delegate any of their obligations, hereunder, without the prior written approval of “BANOBRAS”.

TWENTY-FIFTH. AMENDMENTS AND WAIVERS. Any amendment to this instrument shall be valid only if made by means of amendment in writing executed by “BANOBRAS” and “CEMEX”, as to the revolving loan agreement contained in the first chapter of this instrument; and by the mortgagor and the mortgagee, as to the mortgages contained in the second and third chapters of this instrument.

TWENTY-SIXTH. EXPENSES. All taxes, expenses, government duties and fees incurring in or about the agreement contained in this instrument, including the cancellation of the COLLATERAL, shall be borne by "CEMEX" with proceeds different from the LOAN.

TWENTY-SEVENTH. JURISDICTION AND GOVERNING LAW. For all matters relating to the interpretation, compliance and enforcement of this instrument and for all matters not expressly contemplated herein, the parties agree to submit to the jurisdiction of the competent federal courts sitting in Mexico City, Federal District, and hereby waive any forum which might be available to them by virtue of their present or future domiciles or otherwise.

The undersigned notary public does hereby certify:

I. That I have identified myself with those persons appearing before me, who I deem with legal capacity to enter into the transaction contained herein, and I have satisfied myself as to the identity of the same, as per the credentials attached to the appending of this instrument under the letter "Ñ".

II. That the agents for "CEMEX CONCRETOS", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, and "BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO, have substantiated to me the authority under which they appear with the following:

A) In regards to "CEMEX CONCRETOS", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, with public instrument number thirty-nine thousand seven hundred and forty-four, dated as of October the twentieth, two thousand and eight, granted by and before attorney Ignacio Gerardo Martinez Gonzalez, deputy notary public number 74 in and for the city of San Pedro Garza Garcia, State of Nuevo Leon, and filed with the Public Registry of Property and Commerce of the State of Nuevo Leon, under electronic commercial log entry number six thousand three hundred and thirty-six star nine.

B) In regards to "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, with public instrument number forty thousand four hundred and fifty-six, dated as of March thirty-one of two thousand and nine, granted by and before attorney Francisco Garza Calderon, notary public number seventy-five of the First District, sitting in the city of San Pedro Garza Garcia, State of Nuevo Leon.

C) In regards to BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO, with public instrument number sixty-seven thousand one hundred and eighty-four, dated as of February twelve of two thousand and eight, granted by and before attorney Javier Ceballos Lujambio, notary public number ten in and for the Federal District, and filed with the Public Registry of Property and Commerce of this city under commercial log entry number eighty thousand two hundred and fifty-nine, and with other certified documents which I attach to the appendix of this instrument under the letters "O", "P" and "Q", and declaring that such authority has not been revoked or amended in any manner whatsoever, and that his constituent is duly empowered to enter into the transaction contained in this instrument.

III. That the agents for "CEMEX CONCRETOS", SOCIEDAD ANONIMA DE CAPITAL VARIABLE and "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIBALE, have warranted to the undersigned notary that their constituents are under no obligation to file themselves with the National Registry of Foreign Investment.

IV. The persons appearing before me have declared:

EDUARDO SALABURO LLAMAS, to be a Mexican citizen, a natural of Mexico City, Federal District, where he was born on July the seventh, nineteen seventy-eight, married, having a domicile in Paseo de los Azahares number three thousand and nine, Colonia Paseo Residencial, in Monterrey, State of Nuevo Leon, zip code sixty-four thousand nine hundred and twenty.

FRANCISCO GUILLERMO GOMEZ TAMAYO, to be a Mexican citizen, a natural of Mexico City, Federal District, where he was born on January fourteen, nineteen seventy-two, married, having a domicile in David Alfaro Siqueiros number ninety-nine, Colonia Fraccionamiento (*sic*) La Muralla, in San Pedro Garza Garcia, State of Nuevo Leon, zip code sixty-six thousand two hundred and seventy-eight.

And declare that their constituent is filed with the Federal Taxpayers Registry with the code number: CCO, seventy-four, zero, nine, eighteen, dash, nine, M, one".

LUIS DANIEL ROBLES FERRER.

And declares that his constituent is filed with the Federal Taxpayers Registry with the code number: BNO, seventy-seven, zero, three, fifteen, dash, C, M, zero".

V. The persons appearing before me declare that the statements contained herein were made under oath, and that I did make them aware of the offenses they could incur by declaring falsely.

VI. That I had before me the originals or otherwise, authentic copies of the documents referred to in this instrument.

VII. "R19".- Having read the instrument aloud, and after explaining the scope and legal consequences of the same, and the right the persons appearing before me have to read the instrument directly, they did acknowledge their conformity with the terms stated herein and signed in witnesseth thereof….

Exhibit 4.34

BOOK ONE THOUSAND NINE HUNDRED AND FORTY-NINE

ONE HUNDRED AND SIXTEEN THOUSAND THREE HUNDRED AND EIGHTY-ONE

MEXICO CITY, FEDERAL DISTRICT, as of April twenty-two, two thousand and nine.

JOSE ANGEL VILLALOBOS MAGAÑA, in my capacity of notary public number nine in and for the Federal District, DO HEREBY ATTEST, as to the granting of:

I).- THE SIMPLE LOAN AGREEMENT entered into by and between "BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO, as Lender, and hereinafter referred to as " BANOBRAS", represented herein by its agent, Lusi Daniel Robles Ferrer; by "BANCO NACIONAL DE MEXICO", SOCIEDAD ANONIMA, INTEGRANTE DEL GRUPO FINANCIERO BANAMEX, INSTITUCION FIDUCIARIA, acting as Trustee to that certain administration and payment source trust number 111376-1 (one, one, one, three, seven, six, dash, one), as Borrower, hereinafter referred to as " BORROWER", represented herein by Maria de los Angeles Montemayor Garza and Elva Nelly Wing Trevino; with the additional appearance of "CEMEX CONCRETOS", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, hereinafter referred to as "CEMEX", represented herein by its agents, Francisco Guillermo Gómez Tamayo and Eduardo Salaburu Llamas, for the purposes of getting acquainted with the terms and conditions, and acquire the obligations, contemplated herein;

II).- A SECOND PRIORITY CIVIL MORTAGE granted by "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, as "Mortgagor", represented herein by its agents, Francisco Guillermo Gomez Tamayo and Eduardo Salaburu Llamas, in favor of "BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO, hereinafter referred to as the "Mortgagee", represented by the above named agents;

III).- A SECOND PRIORITY INDUSTRIAL MORTGAGE created and granted consistent with the terms of article sixty-seven of the Law of Banking Institutions by "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE as mortgagor, and hereinafter referred as the "Mortgagor", represented by the above named agents, for the benefit of "BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO, hereinafter referred to as the " Mortgagee", represented by the above named agents, pursuant to the following preamble, recitals, chapters and clauses:

PREAMBLE

A).- A CERTAIN PIECE OF LAND SEGREGATED IN PART FROM THE TRACT KNOW AS PLAZA DE ARMAS, AND [SEGREGATED] IN PART FROM THE TRACT KNOWN AS WILLARD OR EL REPRESO, IN THE MUNICIPALITY OF LA COLORADA, STATE OF SONORA.

I.- By means of public instrument number eleven thousand eight hundred and eight, dated as of March two of nineteen eighty-nine, granted by and before attorney Cesar Tapia Quijada, notary public number fifty-eight in and for Hermosillo, State of Sonora, the first charter of which was filed in the Public Registry of Property of Hermosillo, State of Sonora, as of July the third, nineteen eighty-nine, under log entry number one hundred and sixty-five thousand one hundred twenty-one, first section, volume two hundred ninety-six, "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, acquired title to ONE PORTION OF THAT CERTAIN PIECE OF LAND SEGREGATED IN PART FROM THE TRACT KNOWN AS PLAZA DE ARMAS, AND SEGREGATED IN PART FROM THE TRACT KNOWN AS WILLARD OR EL REPRESO, IN THE MUNICIPALITY OF LA COLORADA, STATE OF SONORA, HAVING A SURFACE AREA OF ONE HUNDRED EIGHTY-FOUR HECTARES NINETY NINE AREAS AND NINETY EIGHT DOT EIGHT CENTIARES, having the following metes and bounds, as per the relevant title instrument:

" . . . From point number 0 (zero) to point number 1 (one), bound to S41°31'16'E (forty one degrees thirty-one minutes and sixteen seconds southeast), with a length of 58.38 (fifty-eight meters and thirty-eight centimeters), adjoining to the piece of land known as "San Francisco"; form point number 1 (one) to point 2 number (two), bound to S35°20'57"W (thirty-five degrees twenty minutes and fifty-seven seconds southwest), with a length of 10.25 (ten meters and twenty-five centimeters), adjoining to the piece of land known as "San Francisco"; from point number 2 (two) to point number 3 (three), bound to S41°01'14"W (forty-one degrees one minute and fourteen seconds southwest), with a length of 41.06 (forty-one meters and six centimeters) adjoining to an "Unnamed" piece of land; from point number 3 (three) to point number 4 (four), bound to S48°28'30"W (forty-eight degrees twenty-eight minutes and thirty seconds southwest), with a length of 20.18 (twenty meters and eighteen centimeters) and adjoining to an "Unnamed" piece of land; from point number 4 (four) to point number 5 (five), bound to S39°11'40"E (thirty-nine degrees eleven minutes and forty seconds southeast), with a length of 126.38 (one hundred and twenty-six meters and thirty-eight centimeters) and adjoining to an "Unnamed" piece of land; from point number 5 (five) to point 6 number (six), bound to S28°09'26"E (twenty-eight degrees nine minutes and twenty-six seconds southeast), with a length of 13.52 (thirteen meters and fifty-two centimeters) and adjoining to an "Unnamed" piece of land; from point number 6 (six) to point number 7 (seven), bound to S20°24'39"E (twenty degrees twenty-four minutes and thirty-nine seconds southeast), with a length of 225.06 (two hundred and twenty-five meters and six centimeters) and adjoining to an "Unnamed" piece of land; form point number 7 (seven) to point number 8 (eight), bound to S20°00'13"E (twenty degrees zero minutes and thirteen seconds southeast), with a length of 544.32 (five hundred and forty-four meters and thirty-two centimeters) and adjoining to an "Unnamed" piece of land; from point number 8 (eight) to the point "D" bound to S12°55'18"W (twelve degrees fifty-five minutes and eighteen seconds southwest), with a length of 1,144.15 (verbatim) (one thousand one hundred forty-four meters and thirteen *(sic)* centimeters) and adjoining to an "Unnamed" piece of land; from the point "D" to the point "C", bound to S70°47'04"W (seventy degrees forty-seven minutes and four seconds southwest), with a length of 452.77 (four hundred and fifty-two meters and seventy-seven centimeters) and adjoining to a piece of land owned by Luis Rodriguez Lugo; form the point "C" to the point "B", bound to S70°47'04"W (seventy degrees forty-seven minutes and four seconds southwest), with a length of 180.49 (one hundred and eighty meters and forty-nine centimeters) and adjoining to various pieces of land owned by Luis Rodriguez Lugo; from the point "B" to the point "A", bound to S5°34'49"E (five degrees thirty-four minutes and forty-nine seconds southeast), with a length of 205.16 (two hundred and five meters and sixteen centimeters) and adjoining to a piece of land owned by Luis Rodriguez Lugo; from the point "A" to point number 10 (ten), bound to S83°54'06"W (eighty-three degrees fifty-four minutes and six degrees southwest), with a length of 370.09 (three hundred and seventy meters and nine centimeters), and adjoining to "Rancho Las Glorias"; from point number ten to point number eleven, bound to N21°49'07"W (twenty-one degrees forty nine minutes and seven seconds northwest), with a length of 1,003.74 (one thousand and three meters and seventy-four centimeters) and adjoining to the railroad spur of Ferrocarril del Pacifico; from point number 11 (eleven) to point number 12 (twelve) bound to N68°07'59"E (sixty-eight seconds (verbatim) seven minutes and fifty-nine seconds northeast), with a length of 659.68 (six hundred and fifty-nine meters and sixty-eight centimeters), and adjoining to a piece of land known as "Willard"; from point number 12 (twelve) to point number 13 (thirteen), bound to N24°11'00"E (twenty-four degrees eleven minutes and zero seconds northeast), with a length of 1,393.33 (one thousand three hundred and ninety-three meters and thirty-three centimeters) and adjoining to the piece of land known as "Willard"; from point number 13 (thirteen) to point number 14 (fourteen), bound to N46°35'48"E (forty-six degrees thirty-five minutes and forty-eight seconds northeast), with a length of 16.24 (sixteen meters and twenty-four centimeters) and adjoining to the piece of land known as "Willard"; form point number 14 (fourteen) to point number 15 (fifteen), bound to N46°35'40"E (forty-six degrees thirty-five minutes and forty-seconds northeast), with a length of 40.66 (forty meters and sixty-six

centimeters) and adjoining to a piece of land known as “Willard” and with Rancho San Francisco”; from point number 15 (fifteen) to point number 0 (zero), bound to N46°35’45”E (forty-six degrees thirty-five minutes and forty-five seconds northeast), with a length of 11.93 (eleven meters and ninety-three centimeters) and adjoining to the piece of land known as “Rancho San Francisco. A survey of the above described real property is submitted hereto...”

II.- By means of public instrument number eleven thousand nine hundred and fifty-four, dated as of March thirty of two thousand, before attorney Cesar Augusto Morales, acting as deputy of the notary public number twenty-two in and for the city of Hermosillo, State of Sonora, “CEMENTOS DEL YAQUI”, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, conveyed title of the piece of real property referred to in section I of the preamble, to “CEMEX MEXICO”, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, including the industrial cement plant together with all of the machinery and equipment, with such conveyance of title ensuing from a certain merger agreement.

III.- By means of public instrument number twelve thousand one hundred and fifty-seven, dated as of February nine of two thousand, before the above referred notary public, the first charter of which was filed in the Public Registry of Property of Hermosillo, State of Sonora, as of March eighteen of two thousand and two, under log entry number two hundred and seventy-six thousand five hundred and forty-three, section of Real Property, first book, volume six thousand six hundred and seventy-three, “CEMENTOS DEL YAQUI”, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, complemented and rectified the public instrument described in the preceding paragraph, containing conveyance of title of the real property described in section I of the preamble of this instrument, and ensuing from a certain merger agreement with, and in favor of, “CEMEX MEXICO”, SOCIEDAD ANONIMA DE CAPITAL VARIABLE.

IV.- The “MORTGAGOR” hereby declares that the real property described section I of the preamble of this instrument, is free and clear of any and all liens and is up to date in the payment of taxes accruing thereon, a situation substantiated with the following materials:

A.- As to the first issue, with the certificate of no liens, filed with the Public Registry of Property of Hermosillo, Sonora, as of April seventeen of two thousand and nine, a copy of which is attached to the appendix of this instrument under the letter “A”, the original of which is attached to the public instrument referred to in the roman numeral seventeenth of the preamble hereof.

B.- As to the second issue:

a.- With that certain bill of payment bearing land code number:

“1703D5110105” (one seven zero three D five one one zero one zero five), a copy of which is attached to the appendix of this instrument under the letter “B”.

Furthermore, said real property has no other bills of rights for water service.

b.- With the certificate of no debts as to real property taxes accruing on the real property described in the section I of the preamble of this instrument, a copy of which is attached to the appendix of this instrument under the letter “C”.

B).- A CERTAIN PIECE OF LAND LOCATED IN LA COLORADA STATE OF SONORA.

V.- By means of public instrument number thirty-three thousand two hundred and thirty-five, dated as of June eighteen, nineteen eighty-nine, before attorney Carlos Cabrera Muñoz, notary public number eleven in and

for the city of Hermosillo, State of Sonora, the first charter of which was filed with the Public Registry of Property of Hermosillo, State of Sonora, on February eight nineteen ninety, under log entry number, one hundred and sixty-eight thousand four hundred and fifty, first section, volume two hundred and ninety-eight, "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, acquired title to that certain PORTION OF LAND LOCATED IN LA COLORADA, STATE OF SONORA, with a land surface area of ONE HUNDRED HECTARES, having the following metes and bounds, as per the relevant title instrument:

" . . . From point "A", bound to N81°44'E (eighty-one degrees and forty-four minutes northeast) with a length of 1,280.48 (one thousand two hundred and eighty meters and forty eight centimeters), adjoining with the remainder of the west portion, where it reaches point "B", from this point, bound to N8°16'W (eight degrees and sixteen minutes northwest) with a length of 661.27 (six hundred and sixty-one meters and twenty-seven minutes *(sic)*, adjoining with the remainder West portion, where it reaches point "C"; from this point, bound to S75°26'W (seventy-five degrees and twenty-six minutes southwest), with a length of 87.06 (eighty-seven meters and six centimeters) adjoining with a certain private property, where it reaches point number 60 (sixty); from this point bound to S75°26'W (seventy-five degrees and twenty-six minutes southwest), with a length of 286.05 (two hundred and eighty-six meters and five centimeters), adjoining with a certain private property, where it reaches point number 61 (sixty-one); from this point bound to S70°55'W (seventy degrees and fifty-five minutes southwest), with a length of 993.70 (nine hundred and ninety-three meters and seventy centimeters), adjoining with a certain private property, where it reaches point number 64 (sixty-four); from this point, with a length of 636.96 (six hundred and thirty-six meters and ninety-six centimeters), adjoining with Ejido Torres, until it reaches the point "A", that is, the starting point, and closing the polygon …"

VI.- By means of public instrument number one thousand nine hundred and fifty-three, dated as of March thirty of two thousand, before attorney Cesar Augusto Morales Mujica, deputy notary public of the notary public number twenty two in and for the city of Hermosillo, State of Sonora, the first charter of which was filed with the Public Registry of Property of Hermosillo, State of Sonora, on June eight of two thousand, under log entry number two hundred and fifty-four thousand four hundred and thirty, section of Real Property, book number one, volume number four thousand three hundred and sixty-six, "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, conveyed title of the piece of real property referred to in the preceding paragraph to "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, with such conveyance of title ensuing from a certain merger agreement.

VII.- The "MORTGAGOR" hereby declares that the real property described in section five of the preamble of this instrument, is free and clear of any and all liens and is up to date in the payment of taxes accruing thereon, a situation substantiated with the following materials:

A.- As to the first issue, with the certificate of no liens, filed with the Public Registry of Property of Hermosillo, Sonora, as of April seventeen of two thousand and nine, which is attached to the appendix of this instrument under the letter "D", the original of which is attached to the public instrument referred to in the roman numeral seventeenth of the preamble hereof.

B.- As to the second issue:

a.- With that certain bill of payment bearing land code number:

"1703D6240087" (one seven zero three D six two four zero zero eight seven), a copy of which is attached to the appendix of this instrument under the letter "E".

Furthermore, said real property has no other bills of rights for water service.

b.- With the certificate of no debts as to real property taxes accruing on the real property described in the section five of the preamble of this instrument, a copy of which is attached to the appendix of this instrument under the letter “F”.

C).- A CERTAIN “UNNAMED” PIECE OF LAND LOCATED APPROXIMATELY AT KILOMETER SEVENTEEN POINT FIVE OF THE ROAD TO HERMOSILLO LA COLORADA, STATE OF SONORA.

VIII.- By means of public instrument number eleven thousand eight hundred and seven, dated as of March two of nineteen eighty-nine, before attorney Cesar Tapia Quijada, notary public number fifty-eight in and for the city of Hermosillo, State of Sonora, the first charter of which was filed with the Public Registry of Property of Hermosillo, State of Sonora, on April twenty-six of nineteen ninety one, under log entry number one hundred and seventy-six thousand four hundred and ninety-two, first section, volume two hundred and thirty-one, “CEMENTOS DEL YAQUI”, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, acquired title to a CERTAIN “UNNAMED” PIECE OF LAND LOCATED APPROXIMATELY AT KILOMETER SVENETEN POINT FIVE OF THE ROAD TO HERMOSILLO, LA COLORADA, STATE OF SONORA, with a surface area of FIFTEEN HECTARES, having the following metes and bounds, as per the relevant title instrument:

“ . . . From point number 1 (one) to point number 2 two, bound to S48°28’30’W (forty-eight degrees twenty-eight minutes and thirty seconds southwest), with a length of 20.18 (twenty meters and eighteen centimeters), adjoining with the piece of land known as Willard and/or El Represo; from point number 2 (two) to point number 3 (three), bound to S39°11’40”E (thirty-nine degrees eleven minutes and forty seconds southeast), with a length of 126.38 (one hundred and twenty-six meters and thirty-eight centimeters), adjoining with the piece of land known as “Willard” and/or El Represo; from point number 3 (three) to point number 4 (four), bound to S28°09’26”E (twenty-eight degrees nine minutes and twenty-six seconds southeast), with a length of 13.52 (thirteen meters and fifty-two centimeters), adjoining with the piece of land known as “Willard” and/or El Represo; from point number 4 (four) to point number 5 (five), bound to S20°24’39”E (twenty degrees twenty-four minutes and thirty nine seconds southeast), with a length of 225.06 (two hundred and twenty-five meters and six centimeters), adjoining with the piece of land known as “Willard” and/or El Represo; from point number 5 (five) to point number 6 (six), bound to S20°00’13”E (twenty degrees zero minutes and thirteen seconds southeast), with a length of 544.32 (five hundred and forty-four meters and thirty-two centimeters), adjoining with the piece of land known as “Willard” and/or El Represo, from point number 6 (six) to point number 7 (seven), bound to N62°31’30”E (sixty-two degrees thirty-one minutes and thirty seconds northeast), with a length of 350.35 m (three hundred and fifty meters and thirty five centimeters), adjoining with the piece of land known as Rancho La Gloria owned by Ms. Lucia Lohr de Rodriguez Lugo; from point number seven to point number one, which was the starting point to close the polygon bound to N43° 23’ 32”W, with a length of 938.29 (nine hundred and thirty-eight meters and twenty-nine centimeters) and adjoining with the piece of land known as San Francisco with the Hermosillo La Colorada road in between. . .”

IX.- By means of public instrument number eleven thousand nine hundred and fifty-eight, dated as of March thirty of two thousand, before attorney Cesar Augusto Morales Mujica, deputy notary public of the notary public number twenty two in and for the city of Hermosillo, State of Sonora, the first charter of which was filed with the Public Registry of Property of Hermosillo, State of Sonora, on May twenty-six of two thousand, under log entry number two hundred and fifty-four thousand and thirty-eight, section of Real Property, book number one, volume number four thousand three hundred and twenty-five, “CEMENTOS DEL YAQUI”, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, conveyed title of the piece of real property referred to in the preceding paragraph to “CEMEX MEXICO”, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, together with the cement production plant, comprised of machinery and equipment, with such conveyance of title ensuing from a certain merger agreement.

X.- The "MORTGAGOR" hereby declares that the real property described in roman numeral eight of the preamble of this instrument, is free and clear of any and all liens and is up to date in the payment of taxes accruing thereon, a situation substantiated with the following materials:

A.- As to the first issue, with the certificate of no liens, filed with the Public Registry of Property of Hermosillo, Sonora, as of April sixteen of two thousand and nine, which is attached to the appendix of this instrument under the letter "G", the original of which is attached to the public instrument referred to in the roman numeral seventeenth of the preamble hereof.

B.- As to the second issue:

a.- With that certain bill of payment bearing land code number:

"1703D5110084" (one seven zero three D five one one zero zero eight four), a copy of which is attached to the appendix of this instrument under the letter "H".

Furthermore, said real property has no other bills of rights for water service.

b.- With the certificate of no debts as to real property taxes accruing on the real property described in the section five of the preamble of this instrument, a copy of which is attached to the appendix of this instrument under the letter "I".

D).- A CERTAIN RURAL PIECE OF LAND LOCATED IN THE MUNICIPALITY OF LA COLORADA, STATE OF SONORA.

XI.- By means of public instrument number eleven thousand eight hundred and six, dated as of March the second of nineteen eighty-nine, before attorney Cesar Tapia Quijada, notary public number fifty-eight in and for the city of Hermosillo, State of Sonora, the first charter of which was filed in the Public Registry of Property of Hermosillo, State of Sonora, on June sixteen of nineteen eighty-nine, under log entry number one hundred and sixty four thousand eight hundred and forty-six, first section, volume two hundred and ninety-two; "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, acquired title to that certain RURAL PIECE OF LAND LOCATED IN THE MUNICIPALITY OF LA COLORADA, STATE OF SONORA, AT KILOMETER SEVENTEEN OF THE ROAD TO HERMOSILLO LA COLORADA, with a surface area of ONE THOUSAND SEVEN HUNDRED AND EIGHTY HECTARES, having the following metes and bounds, as per the relevant title instrument:

" . . . From point number 0 (zero) to point number 1 (one), bound to N39°41'E (thirty-nine degrees and forty-one minutes northeast), with a length of 11.00 (eleven meters); from this point to point number 2 (two), bound to N43°30"W (forty-three degrees and thirty minutes northwest), with a length of 57.26 (fifty-seven meters and twenty-six centimeters); from this point to the vertex of the portion sold to Parque Industrial de Hermosillo, bound to N20°07'W (twenty degrees and seven minutes northwest), with a length of 2,267.29 (two thousand two hundred and sixty-seven meters and twenty-nine centimeters), adjoining to the southwest with the piece of land known as Willard; from this point bound to N62°53'E (sixty-two degrees and fifty-three minutes northeast), with a length of 415.00 (four hundred and fifteen meters), adjoining to the northwest with land owned by Parque Industrial de Hermosillo; from this point bound to N20°07'W (twenty degrees and seven minutes northwest), with a length of 485.50 (four hundred and eighty-five meters and fifty centimeters), adjoining to the Southwest with land owned by Parque Industrial de Hermosillo; from this point bound to S62°53'W (sixty-two degrees and fifty-three minutes southwest), with a length of 415.00 (four hundred and fifteen meters), adjoining to the Southeast with property of Parque Industrial de Hermosillo; from this point to

point number 3 (three), bound to N20°08’ (verbatim) W (twenty degrees and seven (*sic*) minutes northwest), with a length of 432.00 (four hundred and thirty-two meters), adjoining to the Southeast with the piece of land known as Willard; from point number 3 (three) to point number 4 (four), bound to S86°12’E (eighty-six degrees and twelve minutes southeast), with a length of 810.80 (eight hundred and ten meters and eighty centimeters); from point number 4 (four) to point number 5 (five), bound to S31°13’ (*sic*) (thirty-one degrees and thirteen minutes southeast), with a length of 83.56 (eighty-three meters and fifty-six centimeters); from point number 5 (five) to point number 6 (six), bound to S38°48’E (thirty-eight degrees and forty-eight minutes southeast), with a length of 87.81 (eighty-seven meters and eighty-one centimeters); from point number 6 (six) to point number 7 (seven), bound to S60°03’E (sixty degrees and three minutes southeast), with a length of 70.31 (seventy meters and thirty-one centimeters); from point number 7 (seven) to point number 8 (eight), bound to S51°06’E (fifty-one degrees and six minutes southeast), with a length of 658.93 (six hundred and fifty-eight meters and ninety-three centimeters); from point number 8 (eight) to point number 9 (nine), bound to N52°25’E (fifty-two degrees and twenty five minutes northeast), with a length of 73.75 (seventy-three meters and seventy-five centimeters); from point number 9 (nine) to point number 10 (ten), bound to N19°44’E (nineteen degrees and forty-four minutes northeast), with a length of 149.46 (one hundred and forty-nine meters and forty-six centimeters); from point number 10 (ten) to point number 11 (eleven), bound to N02°52’E (two degrees and fifty-two minutes northeast), with a length of 80.45 (eighty meters and forty-five centimeters); from point number 11 (eleven) to point number 12 (twelve), bound to N18°06’W (eighteen degrees and six minutes northwest), with a length of 75.80 (seventy-five meters and eighty centimeters); from point number 12 (twelve) to point number 13 (thirteen), bound to N15°10’E (fifteen degrees and ten minutes northeast), with a length of 94.50 (ninety-four meters and fifty centimeters); from point number 13 (thirteen) to point number 14 (fourteen), bound to N41°23’E (forty-one degrees and twenty three centimeters *(sic)* northeast), with a length of 181.44 (one hundred and eighty-one meters and forty-four centimeters), from point number 14 (fourteen) to point number 15 (fifteen), bound to N41°23’E (forty-one degrees and twenty-three minutes northeast), with a length of 181.44 (one hundred and eighty-one meters and forty-four centimeters), from point number 14 (fourteen) to point number 15 (fifteen), bound to N04°59’E (four degrees and fifty-nine minutes northeast), with a length of 89.23 (eighty-nine meters and twenty-three centimeters); from point number 15 (fifteen) to point number 16 (sixteen), bound to N16°03’W (sixteen degrees and three minutes northwest), with a length of 75.00 (seventy-five meters), adjoining, on the first side, with Rancho San Isidro, and on the remainder sides with Calera Willard; from this point to point number 17 (seventeen), bound to N76°05’E (seventy-six degrees and five minutes northeast), with a length of 188.00 (one hundred and eighty-eight meters); from this point, to point number 18 (eighteen) bound to N78°20’E (seventy-eight degrees and twenty minutes northeast), with a length of 3,956.00 (three thousand nine hundred and fifty-six meters), adjoining on the Northeast with Rancho San Isidro de Eduardo Muñoz Camou; from this point to point number 19 (nineteen), bound to S17°07’E (seventeen degrees and seven minutes southeast), with a length of 927.58 (nine hundred and twenty-seven meters and fifty-eight centimeters), adjoining on the Northeast side with Land Bojórquez or El Bajío; from this point to point number 20 (twenty), bound to S28°57’W (twenty-eight degrees and fifty-seven minutes southwest), with a length of 2,439.12 (two thousand four hundred and thirty-nine meters and twelve centimeters), adjoining on the Southeast with Rancho El Rosario de Magdalena E, *(sic)* de Aguayo; from this point to point number 21’ (twenty-one premium), bound to S38°33’E (thirty-eight degrees and thirty-three minutes southeast), with a length of 486.25 (four hundred and eighty six meters and twenty-five centimeters), adjoining on the Northeast with Rancho El Rosario; from this point to point number 22’ (twenty-two premium), bound to S57°49’48”W (fifty-seven degrees forty-nine minutes and forty-eight seconds southwest), with a length of 3,369.16 (three thousand three hundred and sixty-nine meters and sixteen centimeters), adjoining on the Southeast with a private property; and from this point to the point number 0 (zero), which was the starting point, bound to N43°48’W (forty three degrees forty eight minutes west (*sic*)), in 1,697.50 (one thousand six hundred and ninety-seven meters and fifty centimeters), adjoining with Road to La Colorada. . . .”

XII.- By means of public instrument number eleven thousand nine hundred and fifty-five, dated as of March thirty of two thousand, before attorney Cesar Augusto Morales, acting as deputy to the notary public number twenty-two of Hermosillo, State of Sonora, "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, conveyed title of the piece of real property referred to in the roman numeral eleven above to "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, including the industrial cement plant together with all of the machinery and equipment, with such conveyance of title ensuing from a certain merger agreement.

XIII.- By means of public instrument number twelve thousand one hundred and sixty, dated as of February nine of two thousand, before the above referred notary public, the first charter of which was filed in the Public Registry of Property and Hermosillo, State of Sonora, as of March twenty of two thousand and two, under log entry number two hundred and seventy six thousand six hundred and thirty-seven, section of Real Property, first book, volume six thousand six hundred and eighty-two; "CEMENTOS DEL YAQUI", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, complemented and rectified the public instrument described in the preceding paragraph, containing conveyance of title of the real property described in the preceding paragraph, including the cement production plant located therein, comprised of machinery and equipment, and ensuing from a certain merger agreement with, and in favor of, "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE.

XIV.- The "MORTGAGOR" hereby declares, that the real property described in the roman numeral eleventh above of this instrument, is free and clear of any and all liens and is up to date in the payment of taxes accruing thereon, a situation substantiated with the following materials:

A.- As to the first issue, with the certificate of no liens, filed with the Public Registry of Property of Hermosillo, Sonora, as of April seventeen of two thousand and nine, which is attached to the appendix of this instrument under the letter "J", the original of which is attached to the public instrument referred to in the roman numeral seventeenth of the preamble hereof.

B.- As to the second issue:

a.- With that certain bill of payment bearing land code number:

"1703D5110006" (one seven zero three D five one one zero zero zero six), a copy of which is attached to the appendix of this instrument under the letter "K".

Furthermore, said real property has no other bills of rights for water service.

b.- With the certificate of no debts as to real property taxes accruing on the real property described in the roman numeral eleventh of the preamble of this instrument, a copy of which is attached to the appendix of this instrument under the letter "L".

XV.- The fair market value of those pieces of real properties identified in roman numerals one, five, eight and eleven of the preamble of this instrument, including the improvements and other fixtures comprising the Cement Processing Plant known as "El Yaqui" and owned by the "Mortgagor", is in the amount of $4,104,410,774.00 (FOUR THOUSAND ONE HUNDRED AND FOUR MILLION FOUR HUNDRED AND TEN THOUSAND AND SEVEN HUNDRED AND SEVENTY-FOUR PESOS, 00/100 MEXICAN CURRENCY), as per appraisal number two thousand nine slash zero six hundred and seventeen, performed as of March thirteen of two thousand and nine, for an amount of $2,821,868,000.00 (TWO THOUSAND EIGHT HUNDRED AND TWENTY-ONE MILLION EIGHT HUNDRED AND SIXTY-EIGHT THOUSAND PESOS 00/100, MEXICAN CURRENCY), and the complement thereof with number two thousand nine slash zero

eight hundred and sixty-five, dated as of April sixteen of two thousand and nine, for an amount of $1,282,542,774.00 (ONE THOUSAND TWO HUNDRED AND EIGHTY-TWO MILLION FIVE HUNDRED AND FORTY TWO THOUSAND SEVEN HUNDRED AND SEVENTY-FOUR PESOS 00/100, MEXICAN CURRENCY), performed by the appraisal area of "BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, copies of which are attached to the appendix of this instrument under the letters "M one" and "M two".

XVI.- On October twenty-seven of two thousand and eight, "CEMEX" entered into that certain fixed term public construction agreement under unit prices, number AYTO-TIJ-2008-LP-001, hereinafter referred to as the "CONSTRUCTION CONTRACT", with the Municipality of Tijuana, hereinafter referred to as the "MUNICIPALITY", the purpose of which consists of a comprehensive repavement program for maintenance of main street infrastructure of the MUNICIPALITY and the financing thereof, for an amount of $1,704,959,821.21 (ONE THOUSAND SEVEN HUNDRED AND FOUR MILLION NINE HUNDRED AND FIFTY-NINE THOUSAND EIGHT HUNDRED AND TWENTY-ONE PESOS 21/100, MEXICAN CURRENCY), inclusive of Value Added Tax (hereinafter referred to as "VAT"), where payments were to be tendered against delivery of monthly construction estimates. The CONSTRUCTION CONTRACT provides the obligation of "CEMEX" to finance the execution of the construction works, and the obligation of the MUNICIPALITY to execute and issue certain promissory notes, hereinafter referred to as the " NOTES", the payment of which is secured by participations in federal revenue allocable to the MUNICIPALITY, and to be contributed into an irrevocable administration and payment source trust (hereinafter referred to as the "TIJUANA TRUST"), to be created for such purposes by the MUNICIPALITY and to be designated by the BORROWER, as beneficiary in the first place, for so long as no single NOTE has been recorded with the Notes Registry of the TIJUANA TRUST, and thereafter, by each of the holders thereof and/or BANOBRAS on a pro-rated basis, consistent with the participation each is entitled as holder of the NOTES.

XVII.- By means of public instrument number one hundred and sixteen thousand three hundred and eighty, dated as of April twenty-two, two thousand and nine, granted by and before the undersigned notary, the first charter of which is pending recording with the Public Registry of Property of Hermosillo, State of Sonora, and with Public Registry of Property and Commerce of Monterrey, State of Nuevo Leon; "CEMEX" and "BANOBRAS" entered into a certain revolving loan agreement (hereinafter referred to as the " Revolving Loan Agreement"), among other transactions, for a maximum term of sixty months computed as of the date of the first withdrawal, for up to the amount of $5,000,000,000.00 (FIVE THOUSAND MILLION PESOS 00/100, MEXICAN CURRENCY), divided into a certain Tranche "A", for up to the balance resulting between the maximum amount of $5,000,000,000.00 (FIVE THOUSAND MILLION PESOS 00/100, MEXICAN CURRENCY), and the portion disposed of the Tranche "B", to be used [by "CEMEX"] for working capital and for commencement and/or continuation of the construction work ensuing from those certain construction agreements entered into by "CEMEX" and the Government of the Federal District and with the Government of the State of Mexico -through the Board of Directors of Roads of the State of Mexico-, inclusive of any future public construction work agreements to be entered among "CEMEX" and other governmental agencies and/or private entities, on activities relating to the generation of infrastructure and deriving from construction work agreements from a concession title, permit, or a services agreement (hereinafter referred as to the "FUTURE CONTRACTS").

The amount to be withdrawn under the Tranche "A" portion of the Revolving Loan Agreement was conditioned upon, among other matters, the industrial and civil mortgage created upon the cement production plant known as El Yaqui, property of "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE (hereinafter referred to as the "COLLATERAL"), was to maintain a ratio of one point twenty-five to one, in respect to the outstanding balance of said Tranche and the outstanding balance of the TRANCHE "A" of the loan contained herein.

To secure payment of the above referred amount, legal expenses and other obligations acquired under the Revolving Loan Agreement, "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, granted a first priority CIVIL MORTGAGE upon the real property referred to in roman numerals one, five, eight and eleven of the preamble hereof, and an INDUSTRIAL MORTGAGE upon the cement production plant known as El Yaqui.

XVIIII.- On April twenty-two, of two thousand and nine, "CEMEX", acting as the trustor formed an irrevocable administration and payment source trust, number 111376-1 (one, one, one, three, seven, six, dash, one), with "BANCO NACIONAL DE MEXICO", SOCIEDAD ANONIMA, INTEGRANTE DEL GRUPO FINANCIERO BANAMEX, INSTITUCION FIDUCIARIA, acting as Trustee, and "BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO, as beneficiary thereof; of which I hereby insert verbatim the relevant sections:

"… SECOND. OF THE PARTIES. The parties to this Trust are:

The Trustor:	Cemex Concretos, S. A. de C. V.
The Trustee:	Banco Nacional de Mexico", Sociedad Anonima, Integrante del Grupo Financiero Banamex.
The Beneficiaries:	Banco Nacional de Obras y Servicios Publicos, S. N. C., Institucion de Banca de Desarrollo, as First Beneficiary, for the purposes of tendering payment of the Simple Loan, including any extensions thereto, if any, and associated expenses and financial charges, provided that the formation of the trust shall not be deemed as a novation of the loan or a waiver of collection rights.
	Cemex Concretos, as Second Beneficiary, for the purposes of receiving any surpluses under the terms hereof.

THIRD. TRUST CORPUS. The corpus of the Trust is comprised of the following:

A) With the amount of $25,000.00 (Twenty-five Thousand Pesos 00/100, Mexican Currency), as initial contribution, and tendered by Cemex Concretos to the Trustee upon execution hereof, who acknowledges receipt thereof.

B) With 100% of the right and interest to the collection rights of the Construction Contract, to the extent not committed for and not disposed on the date of execution hereof, including any possible renewals, additions, amendments and/or addenda to the same, all of which is hereby irrevocably contributed into the Trust by Cemex Concretos, by means of assignment of such right and interest and of cash proceeds of the same and/or the Notes, and the proceeds of such Notes.

C) With such additional amounts to be contributed by Cemex Concretos to the Trust corpus for the purposes stated herein and for purposes of compliance with the Simple Loan.

D) With the financial yields obtained from the investment of the Trust corpus, to the extent not already devoted to other purposes of this Trust.

Pursuant to the terms of section 5.1, of Circular 1/2005, published in the Federal Gazette on June 23, 2005, and the amendments thereto as per Circular 1/2005 Bis, dated as of July 11, 2005, Circular 1/2005 Bis 1, dated as of January 12, 2006 and Circular 1/2005 Bis 2, dated as of August 8, 2006, the foregoing clause shall be deemed as formal inventory of the estate comprising the Trust corpus upon formation hereof, a copy of which is kept by the parties hereto. Furthermore, the parties hereto acknowledge that the inventory of the Trust corpus shall be amended from time to time as new contributions are made into the Trust by the Trustor and obtained from yields gained in investments and payments or withdrawals made on the account of the same. Such variations shall be properly accounted for in the account statements referred below.

With the prior approval of the Trustee, the Trust corpus may be increased with additional contributions for which there will be no need of making any amendment hereto and the mere instruction sent by the Trustor to the Trustee shall suffice.

All transfers of property or interests of any kind contributed into the Trust shall be made in accordance with the applicable law. The property and interests comprising the subject matter of the Trust shall be deemed subject to the purposes stated herein and thus, the exercise of any right into the same shall be feasible to the extent consistent with the purposes pursued by this Trust.

FOURTH. PURPOSE. The purpose of this Trust is for the Trustee:

A) To receive from Cemex Concretos the initial contribution and any subsequent contributions required to be made by Cemex Concretos into this Trust to accomplish the purposes stated herein.

B) To enter into a simple loan agreement with BANOBRAS, on behalf and for the account of Cemex Concretos, up to the amount of $1,174,700,000.00 (One Thousand One Hundred and Seventy-Four Million and Seven Hundred Thousand Pesos 00/100, Mexican Currency), in accordance with the terms and conditions as instructed separately in writing by Cemex Concretos, and consistent with the resolutions of the Board of Directors of BANOBRAS, as per Resolution number 20/2009, dated as of March 27, 2009, and its Internal Credit Committee as per Resolutions numbers 63/2009, dated as of March 25, 2009, 82/2009, dated as of April 1, 2009, and /2009, dated as of April 22, 2009.

C) To exercise all withdrawal interest from the Simple Loan consistent with the instructions received to that end from Cemex Concretos, and to receive all of the funding from such Loan, and for the Trustee to allocate and dispose of the same under the terms of the Simple Loan, together with the following guidelines:

TRANCHE A:

1) For working capital and commencement and/or continuation of the construction work under the Construction Contract, including reimbursements of payments made by Cemex Concretos to its suppliers. Such payments and reimbursements shall have been previously approved by Banobras, including any other matters approved by the latter.

2) For payment of commitment fees and financial engineering fees referred to in the Simple Loan, including relevant VAT.

TRANCHE B:

1) For refinancing of up to 80% of the work completed but pending payment on the account of the Construction Contract, as substantiated with execution of the Notes.

2) For payment of commitment fees and withdrawal fees agreed to in the Simple Loan, plus relevant VAT accruing thereon.

3) For payment of principal and interests of the TRANCHE A, consistent with the payment schedule agreed for the Simple Loan.

D) To secure, as per instructions of Cemex Concretos, and prior to any withdrawal of the TRANCHE B of the Simple Loan, an interest rate hedge referred to in section 3 of the third clause of such [Simple Loan] agreement, and the payment of the premiums for securing such hedge, provided that the funds required to comply with this purpose shall have been contributed by Cemex Concretos into this Trust upon securing such hedge.

E) To pay, as applicable, the breaking costs of the funding, pursuant with the terms of the eighth and ninth clauses of the Simple Loan [agreement], and to pay all other amounts associated to such breaking costs, provided that the funds required to comply with this purpose shall have been previously contributed by Cemex Concretos into this Trust.

F) To receive from Cemex Concretos the amounts which may have been paid in error by the Municipality directly to Cemex Concretos, and to use such funds consistent with the purposes hereof.

G) To receive from the Municipality, in the checking account opened as a result of this Trust with Banco Nacional de Mexico, S.A., branch office 525, account number 6724504, with interbanking code number 002180052567245041 (hereinafter the " Concentration Account"), the amounts from construction work estimations, proceeds from refinancing of the Notes and from the payment thereof, providing notice to Banobras as to the amount of such payments consistent with the terms of section I) of this clause.

H) To provide written notice to Banobras, upon receipt of the funds resulting from the exercise of collection interest into the Construction Contract into the Trust, as to the amount of the same, to enable Banobras to notify the Trustee the amount of payment of interests, principal and/or any other fee or expense associated to the Simple Loan, according to the terms and conditions of such Loan.

I) To pay the following items, consistent with the payment order stated herein, from proceeds of the Collection Interests of the Construction Contract, and from proceeds of any additional contributions made by Cemex Concretos, if any, to the full extent permitted by the funds comprising the Trust corpus:

1. Interests, principal, commission fees and/or any other cost or expense associated with the TRANCHE "A" of the Simple Loan, as computed and notified in writing by Banobras to the Trustee with copy served to Cemex Concretos.

2. Trustee's fees and costs and expenses associated with the Trust.

3. Any excess thereof, if any, shall be tendered to Cemex Concretos.

J) To receive the Notes and thereafter to take the following action:

J.1 The Trustee shall provide written notice to Banobras, no later than one business day following receipt thereof, in regards to the Notes received, specifying the total amount represented by such Note and relevant maturity dates.

J.2 Cemex Concretos shall provide written notice to Banobras of its intent to discount the Notes, specifying the name of the banking institution or financial intermediary with whom the discount is intended to take place, and allowing Banobras to indicate if it agrees with such discount, provided that the proceeds of any such discount are sufficient to pay, at the very least, principal and other financial charges associated to the relevant document, in which case the Trustee shall tender to Banobras the amounts required to repay the Simple Loan as to the applicable tranche, and any excess thereof shall be tendered over to Cemex Concretos.

K) To repay principal and interest of the TRANCHE "A" or the TRANCHE "B", as applicable, with the proceeds received from payment of the Notes, as per instructions in writing received to that end from Banobras, and to deliver any excess thereof to Cemex Concretos.

L) To provide to Cemex Concretos and to Banobras a monthly report with indication of activity on the Trust during the relevant period, the total amount of the sums deposited into the Trust resulting from payments on the account of the Construction Contracts or the Notes.

M) To provide to Cemex Concretos and to Banobras a monthly report with indication of the following activity: i) total amount of each of the Notes issued, discounted and refinanced; ii) reports of debt service of the MUNICIPALITY for each of the Notes; iii) to maintain records of debt relating to the TRANCHE "A" and the TRANCHE "B" of the Simple Loan.

N) At the request of Banobras, require Cemex Concretos to provide physical and financial progress reports on the account of the Construction Contracts, in the event no deposits deriving from payment of construction work estimates or the Notes shall have been received in a time period of three months.

O) To invest the funds of the Trust corpus to the extent not already devoted to other purposes of this Trust, consistent with the terms of the fifth clause of this trust.

P) To return the Trust corpus to the Trustor and terminate this Trust upon repayment in full of all the amounts due and payable to the Trustee and under the Loan Agreement (and of any other cost and expense associated thereto), provided that the Trustee shall have received written notice from the First Beneficiary, indicating that the Borrower has satisfied, on behalf of the Trustor, each and all of its obligations under the Simple Loan Agreement.

Q) Upon satisfaction of the purposes of this Trust, to extinguish this agreement…"

RECITALS

I.- "BANOBRAS" hereby declares that:

a) Is a *Sociedad Nacional de Credito* (national lending institution) duly organized pursuant to the laws of the United States of Mexico and that it operates consistent with the provisions of its own Internal Governing Law and other applicable legal provisions.

b) Its Internal Governing Law allows it to finance or refinance public or private investment projects in infrastructure and public services, and to support institutional strength of governments at the federal, state or municipal levels, with the purpose of contributing to the sustainable development of the country.

c) Its representative herein, LUIS DANIEL ROBLES FERRER, has the required authority to enter into this agreement on behalf of "BANOBRAS" and bind the same under the terms hereof, and that such authority has not been revoked as of the date hereof.

d) By means of that certain Resolution number twenty slash two thousand and nine (20/2009), dated as of March twenty-seven of two thousand and nine, the Board of Directors of Banobras approved the granting of a simple loan to the Borrower, pursuant to the terms and conditions hereinafter set forth.

II.- The BORROWER hereby declares through its agents and under oath that:

a) That it is a banking institution incorporated by means of concession granted by the Ministry of Finance and Public Credit (*Secretaria de Hacienda y Credito Publico*), on August 16, 1881, as approved by the Federal Congress on November 16, 1881, and published in the Federal Gazette on November 23, 1881, and currently is authorized to transact as a multiple banking institution according to the terms of the Law of Banking Institutions, and is filed with the Public registry of Property and Commerce of the Federal District under commercial log entry number 65,126, and that, acting in its capacity of trustee, it has formed that certain irrevocable administration and payment source trust number 111376-1 (one, one, one, three, seven, six, dash, one), as executed by "CEMEX" as the trustor, and by BANOBRAS as the first beneficiary.

b) That the agents for the Borrower, Maria de los Angeles Montemayor Garza and Elva Nelly Wing Trevino, have the required authority to enter into this agreement on behalf of the BORROWER and to bind the same under the terms hereof, and that such authority has not been revoked as of the date hereof.

c) It appears to the execution of this agreement in accordance with the purposes set forth in the Trust, which require the Borrower, among other things, to engage, withdraw and repay the Loan; to receive 100% of the right and interest to the collection rights of the Construction Contract, to the extent not committed for and not disposed on the date of execution of the Trust, and payment of construction work estimations and/or proceeds deriving from refinancing of the Notes; to notify BANOBRAS the amount of the same, to enable BANOBRAS to determine the amount of payment of interests and principal; to provide to CEMEX and to BANOBRAS a monthly report with indication of activity of the relevant period and the following matters: i) total amount of each of the Notes issued, discounted and refinanced; ii) reports of debt service for each of the Notes; iii) report of the debt relating to each of the tranches referred to in the first clause of this agreement.

d) The proceeds that will be used to comply with its obligations hereunder ensue and will be from legal sources.

e) The execution of this instrument and compliance of the obligations hereof, do not and will not result in any violation to any law, regulation, decree, ordinance or other legal provisions issued by any power or authority, to the extent applicable to the BORROWER.

f) The execution of this instrument and compliance of the obligations hereof, do not and will not result in any breach of any contract, agreement, instrument or any other contractual obligation or of any other nature, to which the BORROWER is a party or pursuant to which the BORROWER is bound.

g) There are no pending actions, trials, proceedings or investigations, or the knowledge of the BORROWER, threatening the BORROWER, by or before any court or governmental authority in respect of, or relating to, the BORROWER or any of its property which could impair the validity of this instrument or the obligations hereof.

h) There are no unperformed judgments or pending orders, decrees or labor awards rendered against the BORROWER or against any of its property which could impair the validity of this instrument or the obligations hereof.

III. "CEMEX" hereby declares through its agents and under oath that:

a) Is a company duly organized and existing pursuant to the laws of Mexico, [originally] as "COMPAÑIA CONCRETOS CULIACAN", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, as per public instrument number fifteen thousand and fifty, dated as of July five of one thousand nine hundred and sixty-five, granted by and before attorney Jorge Sotelo Regil, notary public number one hundred and eight in and for the Federal District, and filed with the Public Registry of Property and Commerce of Monterrey, State of Nuevo Leon, as of February twenty-two of nineteen ninety-one, under log entry number four hundred and sixty-eight, page one hundred and forty-one, Volume three hundred and forty-eight, Book three, Second Auxiliary of Instruments of Mercantile Companies, Commerce Section.

b) The instrument containing the articles of incorporation identified in the preceding paragraph has been amended on various occasions, and one of the most noteworthy being the amendment contained in the public instrument number sixty-seven thousand five hundred and six, dated as of December thirteen of nineteen ninety-nine, granted by and before attorney Juan Manuel Garza Garcia, notary public number sixty-seven in and for the city of San Pedro Garza Garcia, State of Nuevo Leon; referring to the merger of *"Agregados y Triturados Monterrey", Sociedad Anonima de Capital Variable, "Arena del Oriente", Sociedad Anonima de Capital Variable, "Concreto Prmezclado Nacional", Sociedad Anonima de Capital Variable, "Concreto y Precolados", Sociedad Anonima de Capital Variable* and *"Pavimentos Mexicanos de Concreto", Sociedad Anonima de Capital Variable* (as merged companies), into and with *"Concretos de Alta Calidad y Agregados", Sociedad Anonima de Capital Variable* (as merging company); and also the entire amendment to the by-laws and the corporate name [of the corporate entity ensuing from said merger], among other matters, to *"Cemex Concretos", Sociedad Anonima de Capital Variable*. The first charter of such public instrument was filed with the Public Registry of Property and Commerce of Monterrey, State of Nuevo Leon, as of December fifteen of nineteen ninety-nine, under log entry number nine thousand and eighty-seven, Volume two hundred and nine dash one hundred and seventy-six, Book four, Third Auxiliary of Miscellaneous Matters and Agreements.

Furthermore, as per public instrument number five thousand eight hundred and ninety-four, dated as of December seventeen of two thousand and eight, granted by and before attorney Jose Luis Farias Montemayor, notary public number one hundred and twenty in and for the First District of Monterrey, State of Nuevo Leon; the by-laws of "CEMEX" were up-dated, and among other matters, [the up-dated by laws of] "CEMEX" allowed it to grant or take money in loan, with or without security interest.

c) The agents of "CEMEX" herein, Messrs. FRANCISCO GUILLERMO GOMEZ TAMAYO and EDUARDO SALABURU LLAMAS, have the required authority to execute this public instrument on behalf of "CEMEX" and to bind their constituent under the terms of this instrument, and such authority has not been revoked as of the date hereof.

d) It is willing to enter into this agreement and comply with the obligations set forth herein, and the proceeds that will be used to comply with its obligations hereunder ensue and will be from legal sources.

e) The execution of this instrument and compliance of the obligations hereof, do not and will not result in any violation to any law, regulation, decree, ordinance or other legal provisions issued by any power or authority, to the extent applicable to "CEMEX".

f) The execution of this instrument and compliance of the obligations hereof, do not and will not result in any breach of any contract, agreement, instrument or any other contractual obligation or of any other nature, to which "CEMEX" is a party or pursuant to which "CEMEX" is bound.

g) There are no pending actions, trials, proceedings or investigations, or the knowledge of "CEMEX", threatening "CEMEX", by or before any court or governmental authority in respect of, or relating to, "CEMEX" or any of its property which could impair the validity of this instrument or the obligations hereof.

h) There are no unperformed judgments or pending orders, decrees or labor awards rendered against "CEMEX" or against any of its property which could impair the validity of this instrument or the obligations hereof.

IV.- The "MORTGAGOR" hereby declares through its agents and under oath that:

a) It is a *sociedad anonima de capital variable* (variable capital corporation), duly organized and existing pursuant to the laws of the United States of Mexico.

b) It has obtained all required authorizations and permits (corporate and otherwise) to approve the execution of this instrument and the transactions contemplated herein do not breach its current by-laws.

c) The agents of MORTGAGOR herein have the required authority to execute this instrument on behalf of the "MORTGAGOR" and to bind their constituent under the terms of this instrument, and such authority has not been revoked as of the date hereof.

d) The execution of this instrument and compliance of the obligations hereof, do not and will not result in any violation to any law, regulation, decree, ordinance or other legal provisions issued by any power or authority, to the extent applicable to the "MORTGAGOR".

e) The execution of this instrument and compliance of the obligations hereof, do not and will not result in any breach of any contract, agreement, instrument or any other contractual obligation or of any other nature, to which the "MORTGAGOR" is a party or pursuant to which the "MORTGAGOR" is bound.

f) There are no pending actions, trials, proceedings or investigations, or the knowledge of the "MORTGAGOR", threatening the "MORTGAGOR", by or before any court or governmental authority in respect of, or relating to, the "MORTGAGOR" or any of its property which could impair the validity of this instrument or the obligations hereof.

g) There are no unperformed judgments or pending orders, decrees or labor awards rendered against the "MORTGAGOR" or against any of its property which could impair the validity of this instrument or the obligations hereof.

h) It desires to enter into this agreement in order to collateralize the obligations of its subsidiary, "CEMEX", hereunder and under the terms of that certain Revolving Loan Agreement, for the benefit of "BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO; by creating an industrial mortgage and civil mortgage [as collateral] upon all of the material elements, real and personal property engaged in the exploitation of its business, considered as a unit (hereinafter, including the real property, referred to as the " Assets").

i) It is the only and legal owner and/or holder of the Assets described in the above roman numerals one, nine, thirteen and sixteen of the preamble of this instrument.

j) The "MORTGAGOR" is up to date in the payment of real property taxes, water, electric power and telephone utility services, and of other applicable taxes, duties and utility services in connection with the Assets. Upon the occurrence [or receipt of] any forewarnings, requirements and/or any attachments in connection with such obligations, the "MORTGAGOR" shall provide written notice thereof to "BANOBRAS", within five days following the date the "MORTGATOR" became aware of such event.

k) It is willing to create and grant and industrial and civil mortgage upon the Assets and upon its business considered as a whole, inclusive of the Real Property described in the various sections of the preamble of this instrument, with the limitations and up to the amount set forth hereunder, collectively referred to as the COLLATERAL, consistent with the terms set forth in the chapters II) and III) of this instrument.

l) The Assets are free and clear of any and all liens (whether statutory or otherwise), charge, domain limitation, preemptive right or claim by taxes or any other duties; except for the security interest created for the benefit of BANOBRAS and deriving from that certain Revolving Loan Agreement referred to in the preamble of this instrument.

NOW, THEREFORE, In view of the above, the parties hereto agree to the following:

CLAUSES

FIRST. MAKING OF THE SIMPLE LOAN. "BANOBRAS" hereby advances to the BORROWER a revolving loan, and makes available to the BORROWER an amount of up to $1,174,700,000.00 (ONE THOUSAND ONE HUNDRED AND SEVENTY-FOUR MILLION AND SEVEN HUNDRED THOUSAND PESOS 00/100, MEXICAN CURRENCY), -and hereinafter referred to as the LOAN-.

Except to the extent indicated to the contrary in the seventh clause hereof, [the LOAN] does not include the other commissions or the Value Added Tax (hereinafter referred to as the "VAT"), or the interest set forth hereunder.

The LOAN shall be divided into two tranches, pursuant to the following:

TRANCHE "A": for up to the amount of $774,986,840.00 (SEVEN HUNDRED AND SEVENTY-FOUR MILLION NINE HUNDRED AND EIGHTY-SIX THOUSAND EIGHT HUNDRED AND FORTY PESOS 00/100, MEXICAN CURRENCY).

TRANCHE "B": for up to the balance resulting between the maximum amount of $1,174,700,000.00 (ONE THOUSAND ONE HUNDRED AND SEVENTY-FOUR MILLION AND SEVEN HUNDRED THOUSAND PESOS 00/100, MEXICAN CURRENCY), and the outstanding balance of the TRANCHE "A", upon deducting the funds withdrawn from under the TRANCHE "B".

The available amount of the TRANCHE "A" LOAN shall be subject to, among other matters, the collateral referred to in the third clause below, maintain a ratio of one point twenty-five to one, in respect of the unpaid balance of such Tranche and the outstanding balance of the TRANCHE "A" of the Revolving Loan Agreement.

SECOND. USE OF PROCEEDS. The BORROWER shall deliver the funds of the LOAN over to "CEMEX" for the latter to comply on a timely basis, with its obligations under the CONSTRUCTION CONTRACT. In light of the foregoing, the funds of the LOAN shall be used for the following matters:

TRANCHE "A":

I. To finance working capital required for commencement and/or continuation of execution of the CONSTRUCTION CONTRACT.

II. For payment of commitment fees and financial engineering fees referred to in the seventh clause hereunder and the relevant VAT accruing thereof.

TRANCHE "B":

I. To refinance of up to an eighty percent of the construction work which is concluded but unpaid ensuing from the CONSTRUCTION CONTRACT, as substantiated with the NOTES.

II. For payment of commitment fees and withdrawal fees referred to in the seventh clause hereunder and the relevant VAT accruing thereof.

III. For payment of principal and interests of the TRANCHE "A", consistent with the payment schedule as contemplated for such Tranche in the sixth clause below.

THIRD. CONDITIONS PRECEDENT. In order for the BORROWER to make the first withdrawal on the account of the LOAN, the following conditions precedent shall have been previously complied with or satisfied to the satisfaction of "BANOBRAS":

1. That one hundred percent of the right and interest to all collection ensuing from the CONSTRUCTION CONTRACT, which are not committed for and which remain unused shall have been contributed into the Trust corpus.
2. That the Tijuana Trust shall have been formed by the MUNICIPALITY and that its right and interest to Federal participations, to the extent not already committed for, shall have been contributed into its corpus, and that the BORROWER shall have been appointed as the First Beneficiary as the holder of the NOTES, whenever these may be issued.
3. Only as to the TRANCHE "B" of the LOAN, that an interest rate hedge shall have been secured or otherwise, engage the amount of the LOAN relating to such TRANCHE "B", at a nominal fixed rate equal or lesser to, and form the same period, as provided for in the NOTES, at the option of the BORROWER.
4. A recent report from the credit bureau relating to "CEMEX" and its shareholders shall have been delivered [to "BANOBRAS"], and that it does not imply the creation of further preventive reserves. If the

report should reveal the incurring of a higher risk compared to the risk degree declared upon the approval of the LOAN by the internal decision committee of BANOBRAS, a new approval of these shall be required.

5. Evidence shall have been delivered, as to the filing of the first charter of this instrument with the relevant office of the Public Registry of Property and Commerce.

6. A copy of an insurance policy relating to insurable assets comprising the COLLATERAL shall have been delivered to "BANOBRAS", including evidence of payment thereof. Such insurance policy shall appoint "BANOBRAS" as the preferential beneficiary or, as applicable, an endorsement shall be issued in favor of "BANOBRAS" as the preferential beneficiary.

FOURTH. WITHDRAWALS. Upon satisfaction or completion of the conditions precedent referred to in the above third clause, the BORROWER may carry out multiple withdrawals of the LOAN, subject to the following:

Withdrawals of the TRANCHE "A" [LOAN]:

First withdrawal period.

The BORROWER shall make the first withdrawal on the account of the LOAN, in connection with the TRANCHE "A", in a period not to exceed thirty calendar days, from and after compliance or satisfaction of the conditions precedent.

If the BORROWER should fail to make the first withdrawal of the TRANCHE "A" within the foregoing referred time period, "BANOBRAS" may extend the same, provided that, "BANOBRAS" receives a written request to that end from the authorized agent of the BORROWER, and ["BANOBRAS"] approves the same with due anticipation prior to the expiration of the relevant period. Notwithstanding the foregoing, "BANOBRAS" hereby reserves the right to cancel any extension so approved, at any time, by means of written notice thereof to the BORROWER.

The BORROWER may withdraw the TRANCHE "A", within a time period of sixty calendar days following the commencement date of the withdrawal period or until such time it has fully withdrawn the amount of the same, whichever is first.

The determination of the amount of the LOAN to be withdrawn shall me made by "BANOBRAS" and notified accordingly by "BANOBRAS" in writing to the BORROWER, according to the provisions of the last paragraph of the first clause.

During each withdrawal period, interest accrued and outstanding may be capitalized, according to the terms set forth in the fifth clause below.

Withdrawals of the TRANCHE "B" [LOAN]:

The BORROWER shall be entitled to withdraw on the account of the TRANCHE "B" [LOAN], within a period of twenty-four months after the first withdrawal and with the same frequency as the MUNICIPALITY should issue the NOTES.

The above is on the understanding that the withdrawal amount on the account of each NOTE shall be for up to eighty percent of the present value of the proceeds represented by such NOTE, discounted at the interest rate applicable to the TRANCHE "B", under the terms of the fifth clause below.

FIFTH. INTERESTS. The BORROWER shall pay interests to "BANOBRAS" on a monthly basis, effective as of the date the first withdrawal of the LOAN is made, and until repayment is made in full, at a rate equal to TIIE quoted at 28 (twenty-eight) days, plus four percentage points, and applied over the balance of the TRANCHE "A" and TRANCHE "B". In regards to the TRANCHE "B", the margin may be amended as per the rating of at least one rating agency authorized by the competent authority, to which the trust number 140887-7 (one, four, zero, eight, eight, seven, dash, seven), and formed by the MUNICIPALITY is assigned over (a copy of such trust agreement is attached to the appendix of this instrument under the letter " "). CEMEX CONCRETOS shall provide a copy of such rating to BANOBRAS on a semiannual basis or whenever there is any amendment.

The margin to be applied to the TRANCHE "B" of the LOAN shall be as per the terms of the following schedule:

Loan Rating	Interest Rate (base points over TIIE)
AAA	three hundred and fifty base points
AA+	three hundred and seventy base points
AA	three hundred and seventy-five base points
AA-	four hundred base points
A+	four hundred and thirty-five base points
A	four hundred and thirty-nine base points
A-	four hundred and sixty-two base points
BBB+	four hundred and sixty-six base points
BBB	four hundred and seventy-six base points
BBB-	four hundred and eighty-seven base points
BB+	four hundred and ninety-nine base points
BB	five hundred and twelve base points
BB-	five hundred and twenty-five base points
B+	five hundred and ninety base points
B	five hundred and ninety base points
B-	five hundred and ninety base points
CCC	five hundred and ninety base points
CC	six hundred and eighty-eight base points
C	eight hundred and forty base points
D	one thousand and forty-five base points
E	one thousand two hundred and thirty-six base points
Not rated	five hundred and twenty-five base points

For the purposes hereof, the following definitions shall apply:

A) INTEREST PERIOD. [Shall mean] the period to determine interest accruing upon the outstanding balance of the LOAN, which is to commence the day in which the first withdrawal of the LOAN is made, and which shall conclude the same day of the next month. Subsequent interest periods shall commence and conclude pursuant to the same procedure, in other words, they shall commence the same day on which the immediately prior period ends, and shall conclude the same day of the following month.

Payment of interest relating to any period shall be made precisely on the expiration date of such period.

Whenever an interest period should conclude on a day which is not a banking business day, payment shall be extended to the immediately following business banking day, and the relevant extension shall be considered to compute the relevant interest.

Notwithstanding the above, there shall be irregular interest periods in the calculation of interest whenever the BORROWER should receive funds on a date which is not an interest payment date. In this case accrued interest be calculated by the actual number of days elapsed between the expiration date of the immediately prior interest period and the date in which "BANOBRAS" should provide written notice to the BORROWER as to the amount payable on the account of interest and principal and then payment by the BORROWER is made accordingly.

B) **TIIE.** As to a relevant interest period, [shall mean] the Interbanking Balance Interest Rate *(Tasa de Interes Interbancaria de Equilibrio)* quoted at 28 (twenty-eight) days, as announced by the *Banco de Mexico* in the Federal Official Gazette, as is in force one business day prior to the commencement of each INTEREST PERIOD. The TIIE shall be reviewed on a monthly basis. If the above rate should be modified or otherwise ceases to exist, the relevant calculation shall be made according with the rate or rates that should replace it, and in the absence of any rate, according with such rate as determined by the Ministry of Finance *(Secretaria de Hacienda y Credito Publico)* from time to time.

C) **BANKING BUSINESS DAY.** [Shall mean] the days on which Mexican banking institutions are not authorized to close operations to the general public, and cease business pursuant to the resolutions issued by the National Banking and Securities Commission *(Comision Nacional Bancaria de Valores).*

Interest rate shall be expressed annually and shall be calculated dividing the applicable interest rate between three hundred and sixty days, and the result obtained multiplied by the actual number of days elapsed during the period in which interest accrue with the applicable interest rate, and the result thereof shall be applied to the outstanding balance of the LOAN.

Upon the default of the BORROWER to repay the LOAN as it becomes due consistent with the terms of the following clause, the BORROWER shall pay "BANOBRAS" late interest at a rate equal to the regular interest rate referred to in this clause as it may be in force on the date payment was due, times 1.5 (one point five). Late interest shall be computed over the outstanding balance of principal, and determined on a quarterly basis or fraction thereof, as of the date the same became due until repayment in full.

All payments of interest to be made by the BORROWER to the trustee of the TRUST, for the benefit of "BANOBRAS", shall be made on their relevant due dates as provided for in the eleventh clause below, without the need of prior demand from "BANOBRAS".

The BORROWER and CEMEX agree that if the BORROWER should lack funds to tender payment of the monthly interests, then "CEMEX" will contribute funds into the Trust corpus as it may be necessary to pay interest on the specified dates.

SIXTH.- REPAYMENT. The BORROWER agrees to repay the outstanding balance of the LOAN to "BANOBRAS", together with interest referred to in the preceding clause, according to the following procedure:

Repayment of the TRANCHE "A".

Upon expiration of the withdrawal period on the account of the TRANCHE "A" LOAN, repayments on the account of the LOAN shall be made on each occasion the BORROWER should receive funds from the MUNICIPALITY deriving from the NOTES or deriving from refinancing of the NOTES, excluding VAT, and thus, repayment of the LOAN, as to the TRANCHE "A", shall be completed with payment of the last NOTE or the refinancing thereof. The foregoing is on the understanding that the maximum term to repay the LOAN shall not exceed of five years computed as of the first withdrawal.

The logistic to calculate amortization payments on the LOAN, in regards to the TRANCHE "A" of the LOAN, shall be determined upon expiration of the withdrawal period, with a repayment quotient calculated as follows (a repayment quotient is equal to the result of dividing the outstanding balance of the TRANCHE "A" between the amount represented by the construction work pending completion, payment of which is pending by the MUNICIPALITY, and excluding the relevant VAT), to be applied to the balance of the TRANCHE "A" according to the following formula:

FA= S / OPE (Fat equals St divided by OPE)

Where:

Fa= Repayment quotient during the period.

S= Outstanding balance of the TRANCHE "A" at the end of each withdrawal period during the period.

OPEt= Amount of the construction work pending completion and amount of the work completed but pending payment from the MUNICIPALITY, and excluding VAT.

The BORROWER acknowledges that repayment of the LOAN is not to be suspended or interrupted, and that repayments of principal shall be made on their relevant due dates, according to the terms of this instrument.

To determine the amount of each installment of repayment the BORROWER is required to make to "BANOBRAS", prior written notice made by the BORROWER to "BANOBRAS" as to the amounts of each of the NOTES received, the quotient (Fa) referred to in the preceding paragraph, shall be multiplied by the nominal value of each NOTE, whether refinanced, discounted considering their original nominal value or otherwise, the amount of the payment thereof if the event of an amortization, consistent with the following formula:

Amt (*sic*)= (FA X ME)

Where:

Am= Amount of the repayment installment.

FA= Repayment quotient.

ME= Nominal value of each of the NOTES whether refinanced, discounted considering their original nominal value or otherwise, the amount of the payment thereof if the event of an amortization.

Upon making the calculation of the amount of the repayment installment, "BANOBRAS" shall provide written notice to the BORROWER the amount of the same.

The BORROWER shall tender the relevant repayment on the next business day following receipt of payment of the relevant note amortization.

If the value of the collection interest on the account of the CONSTRUCTION CONTRACT should vary for any reason, "BANOBRAS" may adjust the repayment quotient (FA) accordingly.

Upon the event of a rescission or early termination of the CONSTRUCTION CONTRACT, the settlement amount tendered by the relevant contracting party shall be allocated, to its fullest extent, to repay the outstanding balance of the LOAN on record as of such date, and if such proceeds should prove to be insufficient to pay the outstanding balance of the LOAN, then "CEMEX" agrees to contribute additional funds to the BORROWER.

"CEMEX" hereby agrees that if payment has not been received in full on the account of the CONSTRUCTION CONTRACT within a period of FIVE MONTHS following completion of the relevant construction works contemplated therein, "CEMEX" agrees to contribute the required funds to the BORROWER that will allow the latter to tender the relevant payment, unless:

i) There should be a document in writing substantiating the extension of the term to complete the construction works subject matter of the CONSTRUCTION CONTRACT; or

ii) The CONSTRUCTION CONTRACT should provide for a payment schedule which exceeds the construction schedule of the work, in which case, the repayment schedule [of the LOAN] shall be determined by the payment profile of the NOTES.

Repayment of the TRANCHE "B".

Installments of repayment shall be made on each occasion the BORROWER should receive payments ensuing from the NOTES, and these proceeds shall be applied towards repayment of the outstanding balance of the TRANCHE "B", in the same percentage as determined upon the relevant withdrawal on the account of said NOTES, or consistent with the payment schedule contemplated in the NOTES, as applicable. Any excess proceeds shall be applied consistent with the terms of the Trust.

SEVENTH. COMMISSION FEES. The BORROWER hereby agrees to pay to "BANOBRAS", upon the occurrence of each withdrawal of the LOAN, and to be paid from proceeds of the LOAN, whether from the TRANCHE "A" [LOAN] or the TRANCHE "B" [LOAN], and [calculated] upon the amount of the relevant withdrawal, the following commission fees:

Commission fees on the TRANCHE "A" [LOAN].

I. An opening credit line fee equal to one per cent, plus VAT, calculated upon the amount of the relevant withdrawal, payable upon the making of any withdrawal and from funds of the TRANCHE "A" LOAN.

II. For financial engineering a commission fee equal to one percent, plus VAT, calculated upon the amount of the relevant withdrawal, payable upon the making of any withdrawal and from funds of the TRANCHE "A" LOAN.

Commission fees on the TRANCHE "B" [LOAN].

I. An opening credit line fee equal to one per cent, plus VAT, calculated upon the amount of the relevant withdrawal which is not used for repayment of the TRANCHE "A", payable from funds of the TRANCHE "B" LOAN.

The BORROWER hereby irrevocably instructs "BANOBRAS" to pay the above referred commission fees from the proceeds of the LOAN, on the dates such commissions should become payable, and to this end, "BANOBRAS" is hereby authorized to make the relevant accounting entries.

To that end, the BORROWER expressly agrees and acknowledges that all withdrawals made on the account of the LOAN as per the terms noted above, shall be deemed made for the relevant amounts and that in virtue of the foregoing, the provisions of this clause shall not be contested in the future.

EIGHT. PREPAYMENTS. The BORROWER shall be entitled to make prepayments on the account of the LOAN, in part or in whole, with proceeds different from the funds of the LOAN, without penalty or premium, except for breaking costs for the hedge secured, in which case, the relevant costs shall become payable by the BORROWER. If the hedge is secured from BANOBRAS, then the breaking costs shall become payable consistent with the terms of the ninth clause below.

Prepayments may be tendered by means of two business day prior written notice to "BANOBRAS", provided that accrued and outstanding interests up to the prepayment date are paid as well.

Prepayments shall be applied on their relevant due dates, to the last repayment installment, in decreasing order, thus reducing the repayment term and the outstanding balance of the LOAN.

If the BORROWER should make any prepayments on the account of the TRANCHE "B", such prepayments shall be tendered on the payment date contemplated for the LOAN and the amount of the same shall be the exact number of amortizations of principal to be prepaid.

NINTH. BREAKING COSTS. If any prepayment of the loan (total or partial) should produce a fund breaking relating to the hedge secured for such purposes, these breaking costs ensuing from the imbalance of making a prepayment of the entirety or a portion of the outstanding balance of the LOAN, in the original hedge schedule for the relevant withdrawal, as determined by BANOBRAS and advised to the BORROWER the banking business day following any prepayment made, shall be borne by the BORROWER, together with any VAT accruing thereon. "CEMEX" shall be required to contribute additional funds into the Trust corpus for the foregoing purposes.

The BORROWER agrees that the above referred loss or cost shall be determined by BANOBRAS, who shall rely on formulas and valuation methods for financial derivatives and/or fixed rate loans and/or variable rate loans, as used in the ordinary course of its business, provided that any such formulas or methods are consistent and acceptable in the national financial market.

For the above purposes, BANOBRAS shall advise the BORROWER in addition to the amount of any such braking costs, the procedures and calculations used to determine the same.

TENTH. PAYMENT SOURCE. The following shall be deemed as the payment source of the LOAN:

I. One hundred percent of ["CEMEX's"] right and interest to the collection of the CONSTRUCTION CONTRACT, to the extent not committed and not withdrawn as of the date of execution hereof and/or their contribution thereof to the Trust.

II. Other income contributed by "CEMEX" to the Trust to repay principal and interests on their due dates, in the event the Borrower should lack funds from the TRANCHE "A", and for the payment of interests accruing on the TRANCHE "B".

If the MUNICIPALITY should pay funds on the account of the CONSTRUCTION CONTRACT in a [bank] account other than the Trust account, "CEMEX" agrees to immediately contribute such funds into the Trust corpus and the BORROWER in turn, agrees to tender the same over to "BANOBRAS" immediately upon receipt.

ELEVENTH. PLACE OF PAYMENT. The Borrower agrees to tender payment of all of the obligations herein acquired with "BANOBRAS", before 14:00 (fourteen) hours, central time, on the dates payments are due, in any branch office of *Banco Nacional de Mexico, S.A., Grupo Financiero Banamex* (BANAMEX), with any payment means, to the checking account number 571549 (five, seven, one, five, four, nine), branch office number 870 (eight, seven, zero), location 001 (zero, zero, one), or by means of interbanking payment from any other bank, using the Standardized Banking Code (CLABE) number 002 180 0870 0571549 3 (zero, zero, two, one, eight, zero, zero, eight, seven, zero, zero, five, seven, one, five, four, nine, three), under the name of "BANOBRAS", S.N.C., recovery of receivables from the public and private sector.

The Borrower agrees to tender all payments required to be made herein on the account of the LOAN, before the above stated time, using the code number which identifies the LOAN. The code number which identifies the LOAN shall be supplied to the Borrower in the printed account statements referred to in the eighteenth clause below.

All payments tendered after the above referred time shall be deemed made the next business banking day and this extension shall be computed for the purposes of calculating interests.

"BANOBRAS" reserves the right to change the place and/or form of payment by means of 15 (fifteen) calendar day prior written notice to the BORROWER.

Payments received by "BANOBRAS" in any other place shall not be construed as a new agreement as to the payment place herein agreed. For the purposes of article 2220 (two thousand two hundred and twenty) of the Federal Civil Code, the foregoing provision shall be deemed an express reserve for all relevant purposes.

TWELFTH. PRIORITY OF PAYMENTS. All payments tendered to "BANOBRAS" by the BORROWER, consistent with the purposes stated in the Trust, and from proceeds of the Trust corpus, shall be applied to in the following fashion:

I. Collection expenses incurred by "BANOBRAS", including attorney fees.

II. Any outstanding commission fees.

III. Late interest fees accruing on the LOAN.

IV. Accrued and outstanding interests of the LOAN.

V. Principal which may be outstanding, starting from the oldest installment to the newest.

VI. Accrued interests from the relevant withdrawal period.

VII. Repayment of the LOAN of the relevant period.

VIII. Any balance thereof shall be tendered over to "CEMEX".

THIRTEENTH. MISCELLANEOUS OBLIGATIONS. During the term of the LOAN, the following covenants shall apply:

On behalf of "CEMEX":

I. To provide monthly written notice, as to the progress of construction work, with detail of the work completed and paid for, including work performed pending payment, and work pending completion, in connection with the CONSTRUCTION CONTRACT.

II. To maintain an insurance policy covering the property comprising the COLLATERAL. Such insurance policy shall name "BANOBRAS" as the preferred beneficiary or, to the extent applicable, an endorsement naming "BANOBRAS" as the preferred beneficiary shall be obtained.

III. Provide its financial statements on a yearly basis, as audited by an independent auditor, within the first one hundred and eighty days as of the following fiscal year. Furthermore, it shall supply its records and/or internal financial statements whenever "BANOBRAS" should required the same in writing, no later than sixty days following the closing of the relevant fiscal year.

IV. It shall not engage in any indebtedness, including any obligations for borrowed money, bonds, loans, deferred payment obligations, services or property, financial leases and third party obligations where "CEMEX" should be a guarantor, or generally, enter into financial transactions which may deviate from its ordinary course of business and which may have the effect of defaulting on its payment obligations hereunder.

V. Advise "BANOBRAS" as to the existence of any suit or proceeding asserted against "CEMEX", and of any situation which may compromise the execution of the CONSTRUCTION CONTRACT, which may have the ability of impairing its payment condition.

VI. Provide immediate written notice to "BANOBRAS" upon gaining knowledge of the occurrence or the existence of any situation which might lead to an event of default under the CONSTRUCTION CONTRACT.

Any of the above referred covenants which fail to state a time period for performance, shall be notified or substantiated to "BANOBRAS" in writing, no later than fifteen business days after occurrence of the same.

On behalf of the BORROWER:

I. It shall not engage in any indebtedness, including any obligations for borrowed money, bonds, loans, deferred payment obligations, services or property, financial leases and third party obligations where the

Borrower should be a guarantor, or generally, enter into financial transactions which may deviate from its ordinary course of business and which may have the effect of defaulting on its payment obligations hereunder.

Any of the above referred covenants which fail to state a time period for performance, shall be notified or substantiated to "BANOBRAS" in writing, no later than fifteen business days after occurrence of the same.

FOURTEENTH. EARLY TERMINATION. "BANOBRAS" shall be entitled to declare acceleration of any of the time periods specified herein and shall demand for immediate payment of any outstanding amounts on the account of principal, accrued interest and late interest and of any other financial expenses, upon the occurrence of any default or breach to the obligations herein of "CEMEX" and the BORROWER, and of "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, as MORTGAGOR, including but not limited to occurrence of the following events:

i) If the BORROWER should fail to tender timely payment of two or more installments of principal or interest.

ii) If the proceeds of the LOAN are used for a purpose different from the purposes required by the CONSTRUCTION CONTRACTS, and allocating funds for other purposes.

iii) If the BORROWER fails to provide the information addressed in the preceding clause.

iv) If a proceeding seeking administrative termination of the CONSTRUCTION CONTRACT shall have been instituted.

v) If "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE should transfer or encumber any of the property comprising the COLLATERAL.

vi) If any other breach or default to the terms of this agreement should occur.

If breach or default ensues from force majeure then "BANOBRAS" shall provide written notice to the BORROWER, to "CEMEX" and to "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, of the early termination with detail of the grounds giving rise to such early termination, and these two parties shall then have a term of fifteen calendar days to make any statements they should deem appropriate in connection thereof and cure the unremedied obligation. If upon the expiration of such term the obligation has not been cured or otherwise, the parties have not reached an agreement with "BANOBRAS" to settle the same, then the early termination of the LOAN shall render effective the next business day and all amounts hereunder shall mature.

FIFTEENTH. RESTRICTION OF THE LOAN. The BORROWER and "BANOBRAS" hereby agree that, consistent with the provisions of article two hundred and ninety-four of the General Law of Negotiable Documents and Lending Transactions, "BANOBRAS" hereby reserves the right to reduce the amount of the LOAN at any time, including the withdrawal periods available to the BORROWER to dispose of the same, by means of ten calendar days prior written notice to the BORROWER.

SIXTEENTH. INFORMATION FROM THE CREDIT BUREAU. In order to comply with the terms of the Fair Credit Reporting Act (*Ley para Regular las Sociedades de Informacion Crediticia*), "CEMEX" and its shareholders have supplied to "BANOBRAS", prior to the date hereof, a letter duly signed by the authorized agents of the same, authorizing "BANOBRAS" to do periodic checks with credit reporting agencies relating to their credit history, and authorizing "BANOBRAS" to supply credit information relating to "CEMEX" and its shareholder to such credit reporting agencies, in connection with the LOAN.

"CEMEX" acknowledges having read and understood the implications of the reports issued by the credit reporting agencies, as to the information contained in their data bases, and that failure to comply, in whole or in part, with its payment obligations shall be accounted for with the relevant warning codes in the credit reports which might adversely affect their credit rating. If there should be any controversy arising out of information obtained from the data base of any credit reporting agency, such controversy shall be settled by mediation held before the National Commission for Protection and Defense of Credit Consumers (*Comision Nacional de Proteccion y Defensa de los Usuarios de Servicios Financieros*).

SEVENTEENTH. MAXIMUM TERM OF THE LOAN. The term of the LOAN is for up to two hundred and forty months computed as of the date of the first withdrawal. The foregoing shall apply, provided, however, that the maximum term to repay the Tranche A shall not exceed of sixty months computed as of the date of the first withdrawal. Notwithstanding any termination hereof, the LOAN agreement contained herein shall render effective among the parties until each and all of the obligations hereunder have been complied with.

EIGHTEENTH. ACCOUNT STATEMENTS. "BANOBRAS" shall provide monthly account statements to the BORROWER, which statements shall contain a description of the withdrawals made, repayment installments, interest accrued and outstanding balance, and the BORROWER shall have a term of twenty days upon receipt thereof to make any observations it may have in connection thereto. In the absence of any such observations, the account statements shall be deemed as accepted by the BORROWER in all of its terms according with the applicable law.

SECOND CHAPTER

GRANTING OF THE CIVIL MORTGAGE

NINETEENTH. CREATION OF THE CIVIL MORTGAGE. As security interest of (i) payment in full when due of principal and interests of the LOAN advanced by "BANOBRAS" to "CEMEX" under the terms of the loan agreement contained in the first chapter of the foregoing instrument, (ii) timely compliance by "CEMEX" and the BORROWER of their obligations hereunder, and (iii) payment of all commission fees, costs and expenses associated with or incurred by "BANOBRAS" in the making of the loan, the creation of the mortgage contemplated herein and of any foreclosure efforts (hereinafter, the matters referred to in the preceding numerals shall be referred to as the " SECURED OBLIGATIONS"); the MORTGAGOR, in accordance with the terms of article two thousand nine hundred and twenty of the Federal Civil Code, and its mirror provisions of the Civil Code for the State of Sonora, does hereby create and grant a SECOND priority civil mortgage (the " CIVIL MORTGAGE") upon the Assets, for the benefit of "BANOBRAS", which MORTGAGE includes and shall be extensive to the real property, the premises and constructions attached thereto, and other property, present or future, which should be included thereto by statute. The CIVIL MORTGAGE covers all of the surface and constructions of the real property, with the surface, metes and bounds noted in the preamble of this instrument, all of which is hereby deemed reproduced as if literally inserted hereto. The CIVIL MORTGAGE shall be made extensive to all natural fixtures and appurtenances of the real property, to all improvements made thereto by the MORTGAGOR, to all personal property permanently affixed to the real property which may not be removed without damage to the same, to all new buildings erected upon the real property by the MORTGAGOR and to new floors erected upon the referred real property, to all yields produced by the real property before the MORGAGEE should enforce any of the SECURED OBLIGATIONS, and generally, to all other property which as a matter of fact and as a matter of

law should be incorporated thereto, with no reserve or limitation of any kind whatsoever, consistent with the terms of articles two thousand eight hundred and ninety-six and two thousand eight hundred and ninety-seven of the Federal Civil Code and the mirror provisions thereof of the Civil Code for the State of Sonora.

The mortgage contemplated herein shall secure past due interests, even if these should exceed of the term of three years, for all the time until the statute of limitations elapses, a situation which the Public Registries of Property are hereby required to take due note of.

Solely for filing purposes with the Public Registry of Property, following are the values required for releasing the lien:

a) With regards to the real property identified in roman numeral one of the preamble of this instrument, the amount of ONE THOUSAND AND EIGHTY-ONE MILLION SIX HUNDRED AND SIXTY-THREE THOUSAND SEVEN HUNDRED AND SIXTY PESOS, MEXICAN CURRENCY;

b) With regards to the real property identified in roman numeral five of the preamble of this instrument, the amount of ONE MILLION FIVE HUNDRED AND TWENTY-SEVEN THOUSAND ONE HUNDRED AND TEN PESOS, MEXICAN CURRENCY;

c) With regards to the real property identified in roman numeral eight of the preamble of this instrument, the amount of TWO HUNDRED AND THIRTY-FOUR THOUSAND NINE HUNDRED AND FORTY PESOS, MEXICAN CURRENCY;

d) With regards to the real property identified in roman numeral ten of the preamble of this instrument, the amount of NINE HUNDRED AND ONE MILLION TWO HUNDRED AND SEVENTY-FOUR THOUSAND ONE HUNDRED AND NINETY PESOS, MEXICAN CURRENCY.

THIRD CHAPTER

GRANTING OF THE INDUSTRIAL MORTGAGE

TWENTIETH. CREATION OF THE INDUSTRIAL MORTGAGE. As security interest of the SECURED OBLIGATIONS referred to in the first paragraph of the nineteenth clause above, the MORTGAGOR, in accordance with the terms of article sixty-seven of the Law of Baking Institutions, does hereby grant and create a **SECOND** priority mortgage upon the industrial unit in operation, which includes and shall be extensive to all real property, machinery and equipment described in the document attached to the appendix of this instrument under the letters “M one” and “M two”, and any other assets now or hereinafter engaged to the operation of the El Yaqui Plant, considered as a whole, for the benefit of “BANOBRAS” as MORTGAGEE and secured party.

Both, MORTGAGOR and MORTGAGEE do hereby expressly agree that the following items shall be excluded from the industrial mortgage granted herein: cash available in the treasury from the ordinary course of the operation, inventory and receivables generated from the operations, all of which shall remain for the benefit of the MORTGAGEE. This mortgage shall be made extensive to all natural fixtures and appurtenances of the mortgaged real property, to all improvements made thereto by the MORTGAGOR, to all personal property permanently affixed to the mortgaged real property which may not be removed without damage to the same, to all new buildings erected upon the mortgaged real property by the MORTGAGOR and to new floors erected upon the referred mortgaged real property, to all yields produced by the mortgaged

real property, expressly excluding any cash flows obtained in the ordinary course of business of the operation of the El Yaqui Plant, provided that these proceeds have been obtained before the MORGAGEE should enforce any of the SECURED OBLIGATIONS, and generally, to all other property which as a matter of fact and as a matter of law should be incorporated thereto, with no reserve or limitation of any kind whatsoever, consistent with the terms of articles two thousand eight hundred and ninety-six and two thousand eight hundred and ninety-seven of the Federal Civil Code and the mirror provisions thereof of the Civil Code for the State of Sonora.

The mortgage contemplated herein shall secure past due interests, even if these should exceed of the term of three years, for all the time until the statute of limitations elapses, a situation which the Public Registries of Property are hereby required to take due note of.

FOURTH CHAPTER

COMMON PROVISIONS APPLICABLE TO ALL OF THE PRIOR CHAPTERS

TWENTY-FIRST. DOMICILES. All notices, communications and correspondence among the parties in connection with this instrument shall be made in writing, and shall be deemed validly made if delivered personally or transmitted by facsimile duly confirmed and acknowledged receipt by facsimile or registered mail to the following domiciles:

If to BANOBRAS AND/OR THE MORTGAGEE:

Avenida Javier Barros Sierra number five hundred and fifteen, fourth floor,
Colonia Lomas de Santa Fe,
Delegacion Alvaro Obregon,
Zip code zero, one, two, one nine, Mexico City, Federal District.
Telephone: 5270 1501
Fax: 5270 1200

If to the BORROWER:

Calzada del Valle number three hundred and fifty Oriente, first floor,
Colonia del Valle,
Zip code six, six, two, two, zero, San Pedro Garza Garcia, Nuevo Leon.

If to “CEMEX” and/or the MORTGAGOR:

Avenida Constitucion number four hundred and forty-four, Poniente,
Colonia Centro,
Zip code six, four, zero, zero, zero, Monterrey, Nuevo Leon.
Telephone: 81 8328 3000
Fax: 81 8328 3549

Any change of domicile shall be notified by means of 30 (thirty) days prior written notice to the other party. Absent any notice, all notices and communications shall be valid if made to the domiciles stated herein.

TWENTY-SECOND. HEADINGS. Headings contained in the various clauses of this instrument have been incorporated for convenience of reference only and thus, shall not be used to define or otherwise constraint the contents of such clauses. For interpretation purposes, each clause shall be interpreted consistent with the contents thereof and not by reference to its heading.

TWENTY-THIRD. ASSIGNMENT. By means of written notice to the BORROWER and to the MORTGAGOR immediately after occurrence, "BANOBRAS" may, at any point in time, assign or transfer, in whole or part, its right and interest into this instrument to any other Mexican banking institution. [Upon the assignment] the assignee shall be deemed as lender and mortgagee for the purposes of the contracts formalized herein, in a percentage equal to the interest assigned to such banking institution as per the terms of the relevant assignment agreement.

Any such assignment shall not be deemed or construed as a novation whatsoever as to the rights and obligations hereunder.

Neither the BORROWER nor the MORTGAGOR shall be entitled to assign any of their right and interest into, or delegate any of their obligations, hereunder, without the prior written approval of "BANOBRAS".

TWENTY-FOURTH. AMENDMENTS AND WAIVERS. Any amendment to this instrument shall be valid only if made by means of amendment in writing executed by "BANOBRAS" and the BORROWER, with the involvement of CEMEX, who may not unreasonably refuse to do so.

TWENTY-FIFTH. EXPENSES. All taxes, expenses, government duties and fees incurring in or about the agreement contained in this instrument, including the cancellation of the COLLATERAL, shall be borne by "CEMEX" with proceeds alien to the LOAN.

TWENTY-SIXTH. JURISDICTION AND GOVERNING LAW. For all matters relating to the interpretation, compliance and enforcement of this instrument and for all matters not expressly contemplated herein, the parties agree to submit to the jurisdiction of the competent federal courts sitting in Mexico City, Federal District, and hereby waive any forum which might be available to them by virtue of their present or future domiciles or otherwise.

The undersigned notary public does hereby certify:

I. That I have identified myself with those persons appearing before me, who I deem with legal capacity to enter into the transaction contained herein, and I have satisfied myself as to the identity of the same, as per the credentials attached to the appending of this instrument under the letter "Ñ".

II. That the agents for "CEMEX CONCRETOS", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIBALE, "BANCO NACIONAL DE MEXICO", SOCIEDAD ANONIMA, INTEGRANTE DEL GRUPO FINANCIERO BANAMEX, DIVISION FIDUCIARIA and "BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO, have substantiated to me the authority under which they appear with the following:

A) In regards to "CEMEX CONCRETOS", SOCIEDAD ANONIMA DE CAPITAL VARIABLE, with public instrument number thirty-nine thousand seven hundred and forty-four, dated as of October the twentieth, two thousand and eight, granted by and before attorney Ignacio Gerardo Martinez Gonzalez, deputy notary public number 74 in and for the city of San Pedro Garza Garcia, State of Nuevo Leon, and filed with the Public Registry of Property and Commerce of the State of Nuevo Leon, under electronic commercial log entry number six thousand three hundred and thirty-six star nine.

B) In regards to "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIBALE, with public instrument number forty thousand four hundred and fifty-six, dated as of March thirty-one of two thousand and nine, granted by and before attorney Francisco Garza Calderon, notary public number seventy-five of the First District, sitting in the city of San Pedro Garza Garcia, State of Nuevo Leon.

C) In regards to "BANCO NACIONAL DE MEXICO", SOCIEDAD ANONIMA, INTEGRANTE DEL GRUPO FINANCIERO BANAMEX, DIVISION FIDUCIARIA, with the public instrument number fifty-six thousand nine hundred and sixty-nine, dated as of August seven of two thousand and seven, granted by and before attorney Roberto Nunez y Bandera, notary public number one in and for the Federal District.

D) In regards to BANCO NACIONAL DE OBRAS Y SERVICIOS PUBLICOS", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA DE DESARROLLO, with public instrument number sixty-seven thousand one hundred and eighty-four, dated as of February twelve of two thousand and eight, granted by and before attorney Javier Ceballos Lujambio, notary public number ten in and for the Federal District, and filed with the Public Registry of Property and Commerce of this city under commercial log entry number eighty thousand two hundred and fifty-nine, and with other certified documents which I attach to the appendix of this instrument under the letters "Ñ", "O", "P" and "Q", and declaring that such authority has not been revoked or amended in any manner whatsoever, and that his constituent is duly empowered to enter into the transaction contained in this instrument.

III. That the agents for "CEMEX CONCRETOS", SOCIEDAD ANONIMA DE CPAITAL VARIABLE and "CEMEX MEXICO", SOCIEDAD ANONIMA DE CAPITAL VARIBALE, have warranted to the undersigned notary that their constituents are under no obligation to file themselves with the National Registry of Foreign Investment.

IV. The persons appearing before me have declared:

EDUARDO SALABURO LLAMAS, to be a Mexican citizen, a natural of Mexico City, Federal District, where he was born on July the seventh, nineteen seventy-eight, married, having a domicile in Paseo de los Azahares number three thousand and nine, Colonia Paseo Residencial, in Monterrey, State of Nuevo Leon, zip code sixty-four thousand nine hundred and twenty.

FRANCISCO GUILLERMO GOMEZ TAMAYO, to be a Mexican citizen, a natural of Mexico City, Federal District, where he was born on January fourteen, nineteen seventy-two, married, having a domicile in David Alfaro Siqueiros number ninety-nine, Colonia Fraccionamiento (*sic*) La Muralla, in San Pedro Garza Garcia, State of Nuevo Leon, zip code sixty-six thousand two hundred and seventy-eight.

And declare that their constituent is filed with the Federal Taxpayers Registry with the code number: CCO, seventy-four, zero, nine, eighteen, dash, nine, M, one".

LUIS DANIEL ROBLES FERRER…

And declares that his constituent is filed with the Federal Taxpayers Registry with the code number: BNO, seventy-seven, zero, three, fifteen, dash, C, M, zero".

MARIA DE LOS ANGELES MONTEMAYOR GARZA…

ELVA NELLY WING TREVINO…

And declare that their constituent is filed with the Federal Taxpayers Registry with the code number: "BNM, eighty-four, zero, fifteen, dash, VB, one".

V. The persons appearing before me declare that the statements contained herein were made under oath, and that I did make them aware of the offenses they could incur by declaring falsely.

VI. That I had before me the originals or otherwise, authentic copies of the documents referred to in this instrument.

VII. "R19".- Having read the instrument aloud, and after explaining the scope and legal consequences of the same, and the right the persons appearing before me have to read the instrument directly, they did acknowledge their conformity with the terms stated herein and signed in witnesseth thereof….

Exhibit 8.1

List of Subsidiaries

The following is a list of the significant subsidiaries of CEMEX, S.A.B. de C.V. as of December 31, 2008, including the name of each subsidiary and its country of incorporation:

Cemex México, S.A de C.V.	Mexico
Cemex Construction Materials Florida LLC.	United States
Cemex Materials LLC.	United States
Cemex Inc.	United States
Cemex España, S.A.	Spain
Cemex Concretos, S.A. de C.V.	Mexico
Cemex Colombia, S.A.	Colombia
Assiut Cement Company	Egypt
Cemex Australia Pty Ltd.	Australia

Exhibit 12.1

Certification of the Principal Executive Officer of
CEMEX, S.A.B. de C.V.
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

CERTIFICATIONS

I, Lorenzo H. Zambrano, certify that:

1. I have reviewed this annual report on Form 20-F of CEMEX, S.A.B. de C.V.;
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 company as of, and for, the periods presented in this report;
4. The company'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 company 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 company, 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 company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(c) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and

5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company'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 company'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 company's internal control over financial reporting.

Date: June 30, 2009

/s/ Lorenzo H. Zambrano

Lorenzo H. Zambrano
Chief Executive Officer
CEMEX, S.A.B. de C.V.

Exhibit 12.2

Certification of the Principal Financial Officer of
CEMEX, S.A.B. de C.V.
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

CERTIFICATIONS

I, Héctor Medina, certify that:

1. I have reviewed this annual report on Form 20-F of CEMEX, S.A.B. de C.V.;
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 company as of, and for, the periods presented in this report;
4. The company'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 company 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 company, 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 company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(c) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and

5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company'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 company'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 company's internal control over financial reporting.

Date: June 30, 2009

/s/ Héctor Medina

Héctor Medina
Executive Vice President of Finance and Legal
CEMEX, S.A.B. de C.V.

Exhibit 13.1

Certification of the Principal Executive and Financial Officers of
CEMEX, S.A.B. de C.V.
Pursuant to 18 U.S.C. Section 1350,
as Adopted Pursuant to
Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the Annual Report on Form 20-F of CEMEX, S.A.B. de C.V. (the "Company") for the year ended December 31, 2008, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Lorenzo H. Zambrano, as Chief Executive Officer of the Company, and Héctor Medina, as Executive Vice President of Finance and Legal of the Company, each hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company as of the dates and periods set forth therein.

/s/ Lorenzo H. Zambrano

Name: Lorenzo H. Zambrano
Title: Chief Executive Officer
Date: June 30, 2009

/s/ Héctor Medina

Name: Héctor Medina
Title: Executive Vice President of Finance and Legal
Date: June 30, 2009

This certification is furnished as an exhibit to the Report and accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

Exhibit 14.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
CEMEX, S.A.B. de C.V.:

We hereby consent to the incorporation by reference in (i) the Registration Statement on Form S-8 (File No. 333-13970) of CEMEX, S.A.B. de C.V., (ii) the Registration Statement on Form S-8 (File No. 333-83962) of CEMEX, S.A.B. de C.V., (iii) the Registration Statement on Form S-8 (File No. 333-86090) of CEMEX, S.A.B. de C.V. and (iv) the Registration Statement on Form S-8 (File No. 333-128657) of CEMEX, S.A.B. de C.V., of our reports dated June 29, 2009, with respect to the consolidated balance sheets of CEMEX, S.A.B. de C.V. and subsidiaries (the Company) as of December 31, 2008 and 2007, and the related consolidated statements of income and changes in stockholders' equity as of December 31, 2008, 2007 and 2006, and the related statement of cash flows as of December 31, 2008, and the related statements of changes in financial position as of December 31, 2007 and 2006, and the related financial statement schedule, and the effectiveness of internal control over financial reporting as of December 31, 2008, which reports appear in the December 31, 2008 Annual Report on Form 20-F of CEMEX, S.A.B. de C.V.

Our report dated June 29, 2009 with respect to the consolidated financial statements described in the preceding paragraph contains an explanatory paragraph that states that the Company's ability to fulfill its short and long-term debt obligations that mature in 2009 is dependent on successfully completing their refinancing, which raises substantial doubt about its ability to continue as a going concern; the consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

KPMG Cárdenas Dosal, S.C.

/s/ Celin Zorrilla Rizo

Monterrey, N.L., Mexico
June 30, 2009